

2009 Annual Report



North Carolina State

## **Long Term Care Ombudsman Program**

*Promoting quality of life  
and quality of care  
for long term care residents.*





**North Carolina Department of Health and Human Services**  
**Division of Aging and Adult Services**

2101 Mail Service Center • Raleigh, North Carolina 27699-2101

Beverly Eaves Perdue, Governor  
Lanier M. Cansler, Secretary

Dennis W. Streets  
Director

I am pleased to submit the 2009 North Carolina Long Term Care Ombudsman Program Annual Report for federal fiscal year October 1, 2008 through September 30, 2009.

This Annual Report provides an overview of the work accomplished by community advisory committee volunteers, Regional Long Term Care Ombudsmen and the Office of the State Long Term Care Ombudsman this program year. Long Term Care Ombudsmen strive to protect residents' rights, empower families and educate consumers about long term care issues. Examples of real cases have been included in the annual report that I believe illustrate the difference our Program makes in the lives of long term care residents and their families every day.

North Carolina General Statute §§ 143B-181.18(8) requires the Office of the State Long Term Care Ombudsman to prepare an annual report. A variety of information and data are included that reflect the Long Term Care Ombudsman Program's activities and successes this year.

The North Carolina Long Term Care Ombudsman Program had a very busy and productive year in 2009. I invite you to contact me if you have questions or comments about our Annual Report.

Sincerely,

A handwritten signature in cursive script that reads "Sharon C. Wilder".

Sharon C. Wilder  
State Long Term Care Ombudsman



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## **Ombudsman – Another Name for Friend**

Ms. "C", a resident at The Oaks at Forsyth, has received assistance from the Northwest Piedmont Council of Governments Area Agency on Aging's **Regional Long-Term Care Ombudsman Program** for several years now. Ms. C plays an active role in advocacy on her own behalf and that of her fellow residents. She continues to fine-tune her skills with the help and support of Tenesha Moore, the Regional Ombudsman.

The role of an ombudsman is to advocate for residents of nursing homes, assisted living facilities, and adult care homes. An ombudsman investigates complaints made by or on behalf of residents and serves as a mediator or liaison between the residents and long term care facility staff. These roles must be carried out in a skillful and professional manner. The importance of the roles of a regional ombudsman can be recognized by the sentiment expressed by Ms. C. who said "Tenesha is more than an ombudsman to me. She is my friend and more like a sister to me."

A few months ago, Ms. C's mother passed away after a long battle with colon cancer. It was during this time that she needed a friend the most. "When mama passed away, Tenesha was right there for me. She called to check on me and she even came by and brought me a sympathy card. Mama loved Tenesha and thought the world of her...and I do too," stated a very emotional, teary-eyed Ms. C. "I feel like the Ombudsman Program is very beneficial to me. I can talk to Tenesha about anything and be myself. It is a great program and serves many aspects of long term care facilities."



Regional Ombudsman Visiting with Ms. C

*"The ombudsman stands behind the resident as far as any problems the resident may have in long term care facilities and respects the resident with privacy and confidentiality. The ombudsman does not discuss anything that the resident has talked about with any other person...and because of that, I feel extremely comfortable, secure, and confident in her.*

*She is also extremely beneficial and resourceful because she serves as a middleman between long term care residents and the State. Because of her help, a lot of my complaints have improved and have been alleviated," stated Ms. C. "The Ombudsman Program is a very sincere program that my family and I truly value."*

## 2009 Services Overview

October 1, 2008 – September 30, 2009

State and Regional Long Term Care Ombudsman Program

- 3,441** Complaints handled by the LTC Ombudsman Program
- 1,661** Complainants assisted by State and Regional LTC Ombudsmen
- 7,591** Resident visits made in adult care homes and nursing homes
- 707** Facility licensure surveys observed
- 139** Resident Council meetings attended
- 92** Family Council meetings attended
- 25,170** Individuals provided with technical assistance on LTC issues
- 8,660** Consultations to LTC providers
- 618** Training sessions provided for staff in LTC Facilities
- 1,188** Community education workshops conducted (493 focused on Elder Abuse Prevention Education)
- 14,756** Individuals who attended Elder Abuse Awareness and Prevention training
- 3,616** Hours spent training community advisory committee members and new ombudsmen



## 2009 – the Year in Review

The Office of the State Long Term Care Ombudsman embarked on an exciting adventure that changed the way in which it collects and reports program data. The Program transitioned from a Foxpro software spreadsheet database to an interactive web-based environment. North Carolina received significant support and assistance from Ohio's Long Term Care Ombudsman Program. Beverly Laubert, Ohio's State Long Term Care Ombudsman was willing to share the fundamental elements of their data and complaint tracking system with North Carolina. Ohio's willingness to allow adaptation of their program was the only way North Carolina was able to improve its complaint tracking system since no funds were available to develop or purchase a new program. Once all of the major obstacles were overcome, the hard work began with the computer system programmers and designers configuring the system to meet the unique needs of the N.C. Long Term Care Ombudsman Program. After many months of in-person meetings, telephone conferences and webinars, the groundwork was laid for a new system that would be able to provide a wealth of information about residents, providers and how services are delivered in our state. The program, called ODIS-NC (Ombudsman Documentation



Henry Harding, DIRM Programmer  
and Denise Rogers, Ombudsman Elder Rights  
Specialist pilot ODIS-NC

and Information System) was piloted in September 2009. Five trainings were conducted for small groups of regional ombudsmen in the State's Division of Information and Resource Management's computer lab with Office of the State Long Term Ombudsman staff. The system is very different from its predecessor, but its potential is what makes it so appealing.

The Program embraced 21st century technology by conducting its first videoconference for regional ombudsmen in February 2009, which replaced the traditional in-person day-long meeting. It was hosted at the state's Information and Technology Center in Raleigh and satellites sites at six community colleges across the state. The ombudsmen were able to travel to a location close to their home or office to participate. There were a few technical issues that arose, but overall the response was positive and the regional ombudsmen felt

connected. A cost savings of over \$7,500 for the 17 Area Agencies on Aging was a major deciding factor in making videoconferencing an annual training event.

The Office of the State Long Term Care Ombudsman along with Friends of Residents in Long Term Care, AARP, and other advocacy organizations sponsored the 6<sup>th</sup> Biennial Long Term Care Policy and Advocacy Day in May of 2009. The theme for the event was "Care in the Long Term." Advocates came out to learn the latest information and trends in long term care. The key ideas proposed by presenters that required legislative action included the following:

- Increase funding for Home and Community Block Grant;
- Increase funding for Project C.A.R.E. (Caregivers Alternatives to Running on Empty);
- Preservation of funding for senior centers;
- Support for funding of a mobile dental unit that could provide services to individuals living in long term care facilities;
- Avoid cuts to Medicaid services, particularly in the areas of personal care and therapy services;
- Continue funding for prescription drug assistance programs;

- Address mixed populations in adult care homes;
- Support revision of guardianship statutes;
- Support the Adult Protective Services Clearinghouse Model for Vulnerable and Elder Adults legislation, and
- End the variance in training/competency requirements for the nursing assistant's qualification exam.

The Office of the State Long Term Care Ombudsman along with Division of Aging and Adult Services colleagues in the Adult Services Section participated for the first time in the fourth annual observance of World Elder Abuse Awareness Day, June 15, 2009. The day was recognized through the distribution of lavender colored commemorative ribbons to state representatives and senators who serve on North Carolina's Study Commission on Aging. Ribbons were also distributed to other agencies within the Department of Health and Human Services.

The activities of the Ombudsman Program Workgroup yielded noticeable results with the debut of the **CAC Essential Guide**. The Guide was developed to enhance the selection and appointment efforts of local boards of county commissioners in their oversight of community advisory committees.

Regional ombudsmen are now able to use this educational document as an opportunity to introduce the Long Term Care Ombudsman Program to local county commissioners and eager volunteers who want to make a difference in their communities. The resurgence in volunteerism has played an important role in strengthening and in some case, reactivating committees that had become inactive.

As the year progressed, the workgroup turned its attention to updating the Long Term Care Ombudsman Program's Policy and Procedures Manual. The composition of the group remained stable with representation from area agency on aging directors, regional ombudsmen and State Ombudsman Program staff. Lively discussions took place as the committee reviewed, refined, streamlined and added new requirements to the governing documents of the program.

Last year, the Division assisted with the production of a video designed to promote career interest in the field of Aging. Kathryn Lanier, Ombudsman Program Specialist was instrumental in the creation of the script, assigning talent and securing the location for the shoot. Many agencies within the aging network were involved and represented in the video. The LTC Ombudsman Program was highlighted along with area agencies on aging, senior centers and

departments of social services as potential employers for those who want to work with older adults. The video is available for viewing on the NC Division of Aging and Adult Services website which links directly to the website of the project's creator, Jim Babson and the **US Careers On-Line** (<http://uscareersonline.com/Video.aspx>).

### **The Strategic Alliances for Elders in Long Term Care (S.A.F.E.in-LTC)**

Task Force celebrated its sixth anniversary and completed another successful year. Task force members participated in community education fairs, long-term care trade shows and conducted several presentations during the year. The Long Term Care and Law Enforcement sub-committee began creating the training curriculum for long term care administrators and staff on what to expect and how to be prepared to respond to law enforcement when they have to conduct an investigation in a facility.

The **Voiceless Victims** course was taught at both the eastern and western campuses of the North Carolina Justice Academy. The summer session was an outstanding success for two reasons: it was the largest class of students (19) to date and it also included law enforcement officers from South Carolina. A concerted effort was made to broaden the scope and offering of this unique course to law

enforcement officers and other interested parties outside the state. Invitations were extended to law enforcement agencies in **South Carolina, Tennessee, Virginia,** and **Georgia**. The response from the other states was encouraging so an invitation to attend the training will be extended to neighboring states when the course is taught. The much anticipated on-line version of **Voiceless Victims** debuted in the fall of 2009. Fifteen students have taken the course.

**Resident Connections** is a volunteer visitation program for residents in long term care facilities who have few visitors and/or family members who live in the area. The program continues to grow and attract caring, dedicated individuals willing to spend time with residents. The project has made a positive impact in the quality of life for many residents by letting them know their lives have meaning and they have not been forgotten.

*Never doubt that a small group of thoughtful, committed citizens can change the world. It is the only thing that ever has.*

*Margaret Mead*





## Long Term Care Ombudsman Program History

The federal Older Americans Act established the Long Term Care Ombudsman Program in 1978. Following the successful completion of pilot ombudsman programs in seven states, authorization for a national Long Term Care Ombudsman Program was enacted requiring that every state establish a Long Term Care Ombudsman Program. In subsequent years, further amendments to the Older Americans Act expanded the jurisdiction and scope of the Long Term Care Ombudsman Program to cover both nursing homes and adult care homes. The broader scope included the creation of a network of trained volunteers, an informal complaint resolution process and systems advocacy responsibilities related to problems impacting residents in long term care facilities.

In 1989, the North Carolina State Long Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25 which mirrors the federal mandates set forth in the Older Americans Act for the program. The legislation includes the responsibilities of the Long Term Care Ombudsman Program administered through an Office of the State Long Term Care Ombudsman as well as the functions of an Office of Regional Long Term Care Ombudsman Program. The North Carolina State Long Term Care Ombudsman Program is located in the Department of Health and Human Services, Division of Aging and Adult Services. The Regional Long Term Care Ombudsman Programs are housed in the 17 Area Agencies on Aging across the state.

### **An Ombudsman's Perspective**

*A person's point of view about a particular situation depends on where they are and what their role is in the event. This statement describes how my eyes were opened during my first few months working as a new Regional Long Term Care Ombudsman. My background was in the provision of mental health services within long term care facilities; however, Residents' Rights or client advocacy had never been emphasized within the context of the services that we provided. In my current position as a Regional Ombudsman, I am now aware of the numerous opportunities I may have missed to advocate for quality of life for former clients living in a long term care facility. I truly consider it an honor to be able to make a difference in the lives of individuals, who for whatever reason, are now living in a long term care facility.*

*The role of the Long Term Care Ombudsman can best be described as diverse and rewarding as well as invaluable since it*

*encompasses all areas that shape the daily life of a resident in long term care. Whether it is advocating for the ability of a resident to enjoy a hot cup of coffee or intervening in something as complex as an involuntary discharge, my being able to assist with resolving each resident's concerns plays a vital role in their quality of life and care. Yet sadly, far too many residents are unable or unwilling to advocate for themselves. Since becoming a Regional Ombudsman this past year, I have encountered residents who, whether valid or perceived, have expressed fear of retaliation from facility staff or think they do not have the right to complain. By the time a resident moves into a long term care facility, they frequently have lost a spouse, been stripped of their home, and the numerous possessions they once cherished. They feel vulnerable and alone. Far too often, they experience subtle ramifications as a result of any attempt to voice dissatisfaction with staff within the facility which serves to silence their voice. Long Term Care*

*Ombudsmen frequently hear from residents that staff no longer responds to them in a timely fashion, become rough in their handling during personal care, and treat them curtly as a result of their lodging a complaint. Serving as a Regional Ombudsman has been extremely rewarding because not only have I assisted them when needed, I've empowered residents to advocate for themselves, and assured them they do have the right!*

*In my short tenure, I have realized there is a great lack of awareness among residents, family members, and the community as a whole about the Long Term Care Ombudsman Program. I have made it a personal goal to educate any individual whose path I cross about the Program. More importantly, I have had the privilege of meeting residents from all walks of life, spending time listening to their concerns, and often becoming their voice as a way to enhance their quality of life and quality of care. In my opinion, there is nothing more valuable that I could be doing with my time.*

## Long Term Care Ombudsman Program Purpose

The North Carolina Long Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights.<sup>1</sup> The program provides information to citizens about the long term care system as well as assistance accessing services. The Long Term Care Ombudsman Program's mandated responsibilities are to:

- Receive and attempt to resolve complaints made by or on behalf of residents in long term care facilities;
- Provide information to the general public on long term care issues;
- Promote community involvement with long term care residents and facilities;
- Work with long term care providers to resolve issues of common concern;
- Assist long term care providers with staff training (particularly on Residents' Rights);
- Train and provide technical assistance to community advisory committee volunteers appointed by county commissioners;
- Collect and report data regarding the number of complaints handled and other program activities;

- Carry out activities for community education and prevention of elder abuse, neglect, and exploitation; and
- Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.<sup>2</sup>

<sup>1</sup> 42 USC § 3001 et seq. A copy of relevant sections is attached as Appendix C.

<sup>2</sup> § 143B-181.150.25 et seq. A copy is attached as Appendix D.

# Long Term Care Ombudsman Program Organization

The State Long Term Care Ombudsman Program is in the Elder Rights and Special Initiatives Section of the Division of Aging and Adult Services within the North Carolina Department of Health and Human Services. The State Long Term Care Ombudsman, along with an Ombudsman Program Specialist and an Ombudsman/Elder Rights Specialist manage day-to-day program administration that includes ensuring all newly hired regional ombudsmen complete the required state certification process and that the Program is in compliance with mandates in the Older Americans



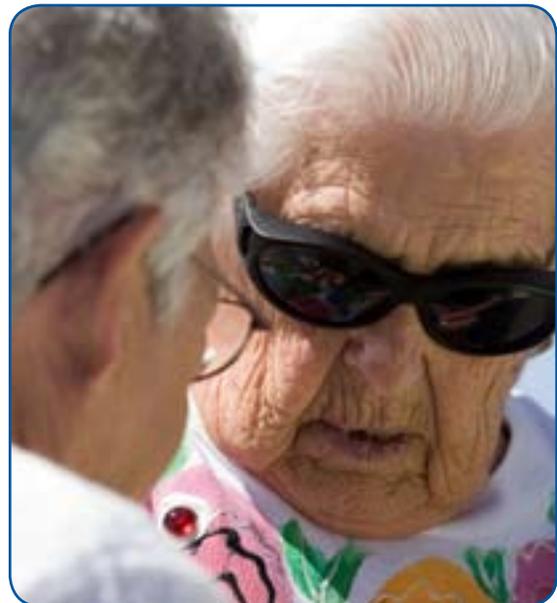
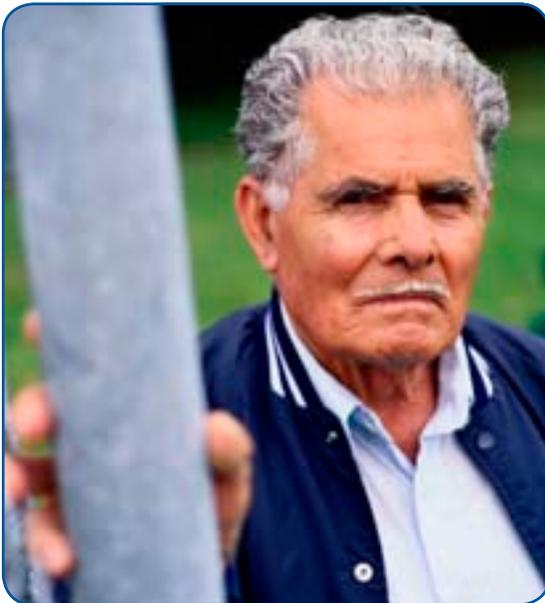
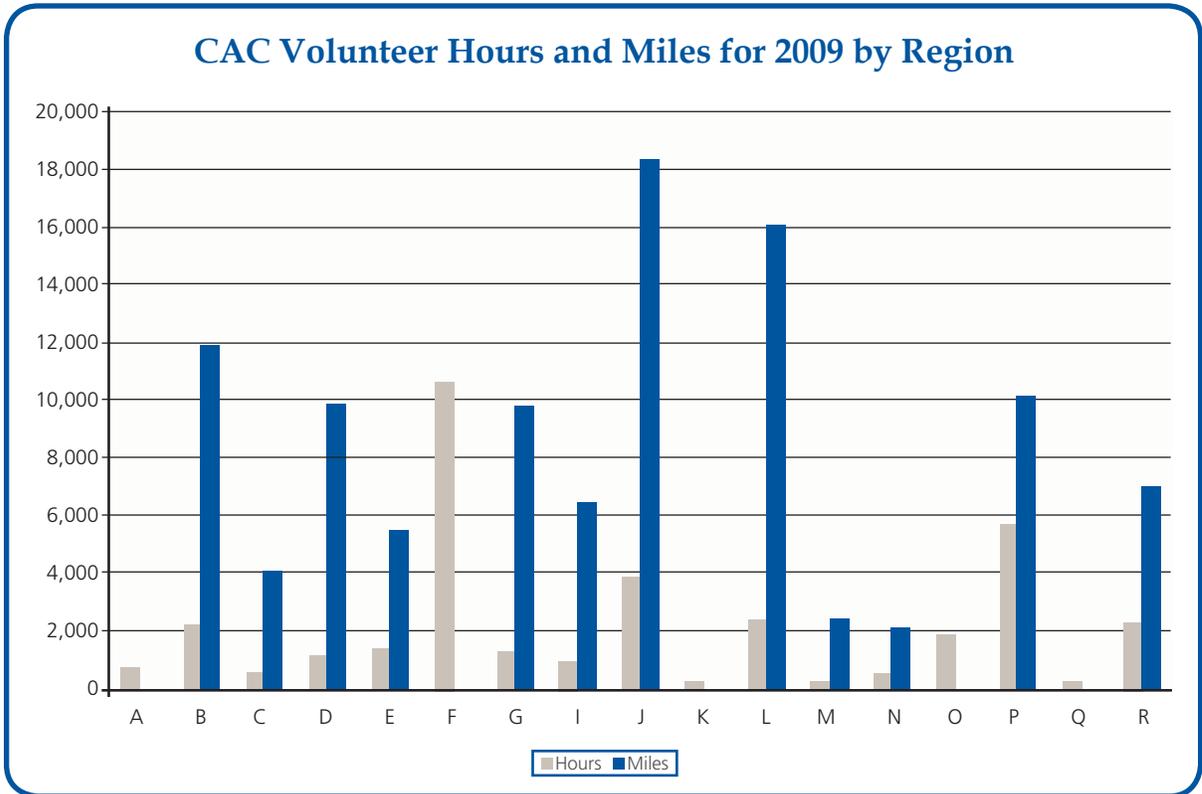
Act as amended and N. C. General Statutes.

The Regional Long Term Care Ombudsmen are housed in the 17 Area Agencies on Aging across the state. The Area Agencies on Aging are in regional planning councils known as Councils of Government which were created by the N.C. General Assembly in the early 1970's. As a part of the Area Agency on Aging, each Regional Long Term Care Ombudsman Program provides advocacy and direct services to long term care residents in multiple counties.

The community advisory committees were established through state legislation in the mid-70's. Boards of county commissioners are authorized to appoint local citizens to serve as advocates for residents in long term care facilities. Each community advisory committee member appointed must complete 15 hours of initial training prior to assuming official duties mandated by state statute (G.S. 131D-31 and G. S. 131E-128). The regional long term care ombudsmen ensure that each volunteer completes the required training included in the State Long Term Care Ombudsman Program's Policies and Procedures to equip them to serve as 'grassroots advocates' in their communities. There are currently 1,098 trained volunteers actively serving on the adult care home, nursing home or joint community advisory

committees in all 100 counties of the state. Regional ombudsmen submit quarterly reports that include the number of volunteer hours logged by committee members. Volunteers are not required to report the

number of miles they travel fulfilling their duties; however, many do voluntarily provide this information as part of their Quarterly Activity Reports.



# Long Term Care Ombudsman Program Services

## Information and Consultation to the General Public

Ombudsmen provided technical assistance consultations to **25,170 individuals** during 2009. The information most frequently requested involved:

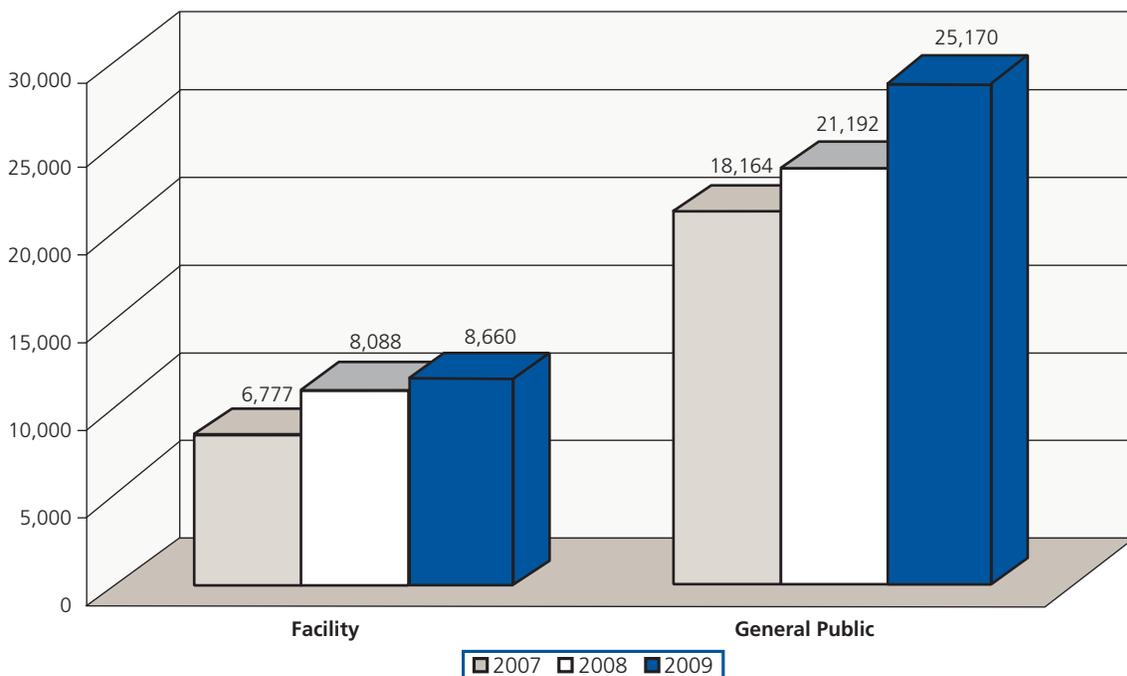
- Protection of Residents' Rights during the Transfer/Discharge process
- Quality of care issues and Residents' Rights
- Options for selection of a long term care facility

## Information and Consultation to Nursing Homes and Adult Care Homes

The Program responded to **8,660 consultation requests** from long term care providers regarding resident care issues such as:

- Ensuring Residents' Rights are protected when addressing issues such as transfer/discharge from the facility, roommate conflicts, elopements, falls, smoking, visitation and advance directives.
- Explanation of the role of the Long Term Care Ombudsman Program and the Community Advisory Committee.
- How to effectively deal with challenging resident behaviors and family issues.

**Technical Assistance Provided by the State and Regional LTC Ombudsmen**



### Informal Complaint Resolution

The Long Term Care Ombudsman Program receives, investigates, and attempts to resolve complaints made by or on behalf of residents in long term care facilities. Confidentiality is the foundation of the complaint resolution process. Long Term Care Ombudsmen do not disclose the identity of any person registering complaints with the program nor the details of a complaint in any way that could identify the complainant unless written informed consent has been given for disclosure.

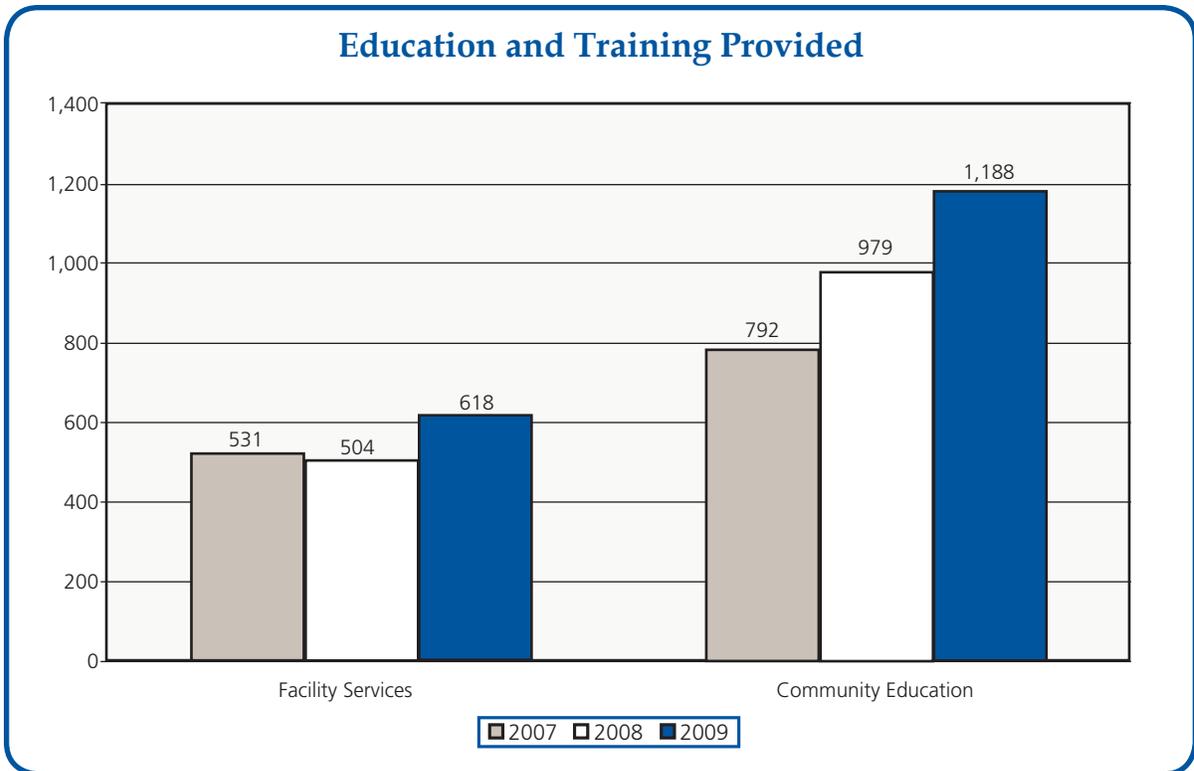
The Long Term Care Ombudsman Program responded to **3,441 complaints** from **1,661 individuals** in FFY 2009. Sixty-three percent (63%) of those complaints were related to problems experienced in nursing homes and thirty-seven

percent (37%) of complaints received involved problems in adult care homes.

### In-Service Education for Facility Staff

The Long Term Care Ombudsman Program conducted **618 training sessions** for long term care facility staff during 2009. Regional ombudsmen across the state conducted elder abuse and Residents' Rights educational sessions for direct care staff. They also provided training on topics such as:

- Residents' Rights and the Role of the Long Term Care Ombudsmen Program
- Sensitivity to Sensory Losses Associated with Aging
- Elder Abuse Identification and Prevention



## Community Education

The Long Term Care Ombudsman Program provided **1,188 educational sessions** for a variety of community audiences during 2009. Workshop topics included:

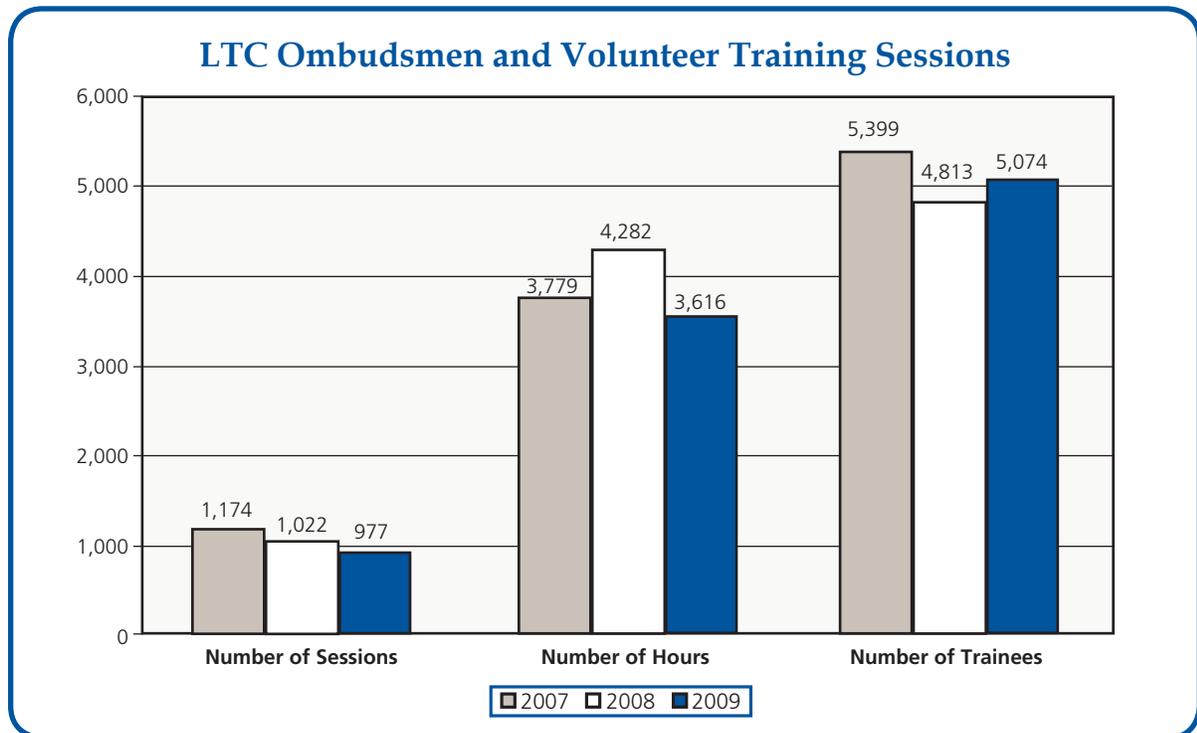
- Ombudsman Program Roles and Services
- Understanding Residents' Rights in Long Term Care Facilities
- Recognizing and Reporting Elder Abuse
- Older Adult Sensitivity Training
- Star Rating System

Data available through the Ombudsman Complaint Tracking System indicates that **493 educational presentations** conducted for either facility staff or community groups through the Long Term Care Ombudsman

Program focused on topics related to **Elder Abuse Prevention and Awareness**. Presentations about abuse, neglect, financial exploitation, and how to recognize and report suspected elder abuse reached an estimated **14,756** persons. In addition, the Regional and State LTC Ombudsman Program staff made **265 referrals to local Adult Protective Services** during FFY 2009.

## Volunteer Management

The Long Term Care Ombudsman Program provided **977 sessions** and **3,616 hours** of training for community advisory committee volunteers and new regional ombudsmen during 2009. Regional ombudsmen spent approximately **24%** of their time providing initial training for newly appointed community advisory committee members, coordinating ongoing



committee training, and regularly providing technical assistance to the local advisory committees. Through these activities, the Ombudsman Program provided consistent support for **1,098** trained, active community advisory committee volunteers throughout 2009.

### Ombudsman Training and Certification

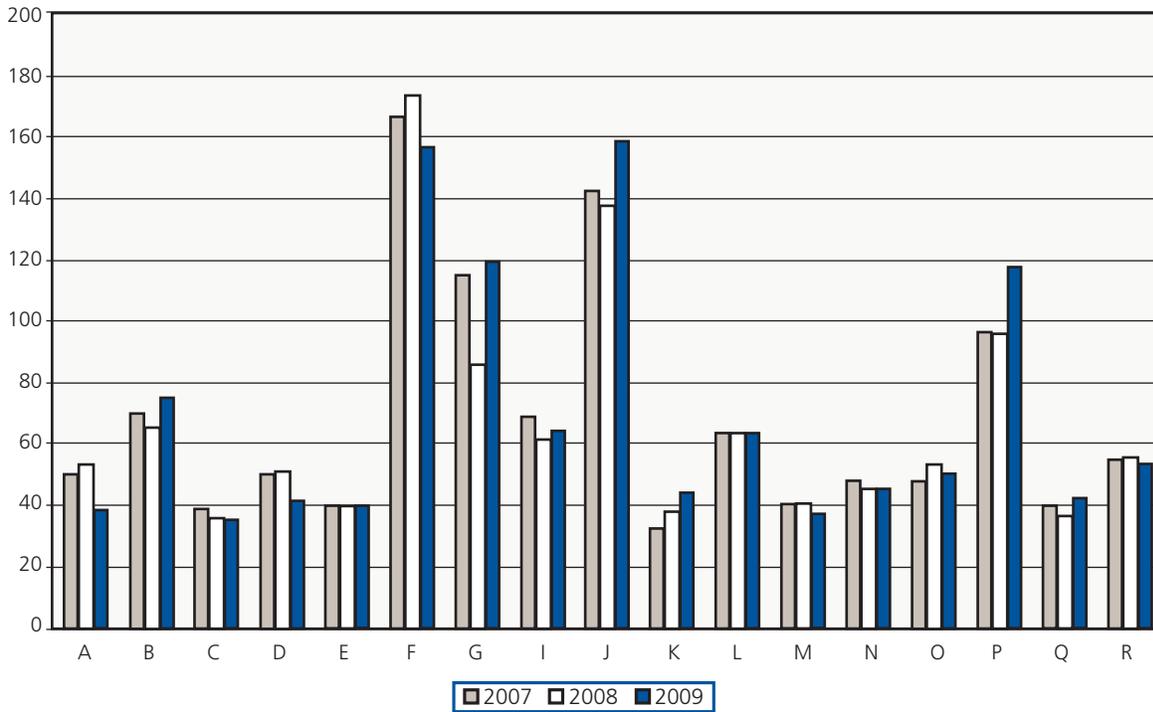
Four (4) new Regional Long Term Care Ombudsmen completed the State Long Term Care Ombudsman Program's requirements for certification during 2009. The Ombudsman Program certification process includes five days of intense training with staff in the Office of the State Long Term Care Ombudsman; internships in nursing homes, adult care homes and family care homes plus completion of a required reading list. The State Office also works cooperatively with the Regional Long Term Care Ombudsman Association to match each newly certified regional ombudsman with a mentor from a pool of more experienced regional ombudsmen. The mentor is available one-on-one for at least one year. Finally, all regional long term care ombudsmen must attend 20 hours of quarterly training each year which is provided or approved by the Office of the State Long Term Care Ombudsman.

In 2009, the topics for training provided by state staff on a quarterly basis for the regional ombudsmen included: Federal and State Regulations Involving Admissions Contracts for Nursing Homes and Adult Care Homes, Adult Care Home Star Rating System, Medical Release of Corrections Inmates, Presentation by the N.C. Division of Services for the Blind, Resources for Working with Residents, Families and LTC Staff on Grief and Loss, Update on Community Resources Centers, the new computer web-based Ombudsman Data Information System (ODIS-NC), and several roundtable discussions regarding information pertaining to the LTC Ombudsman Program.

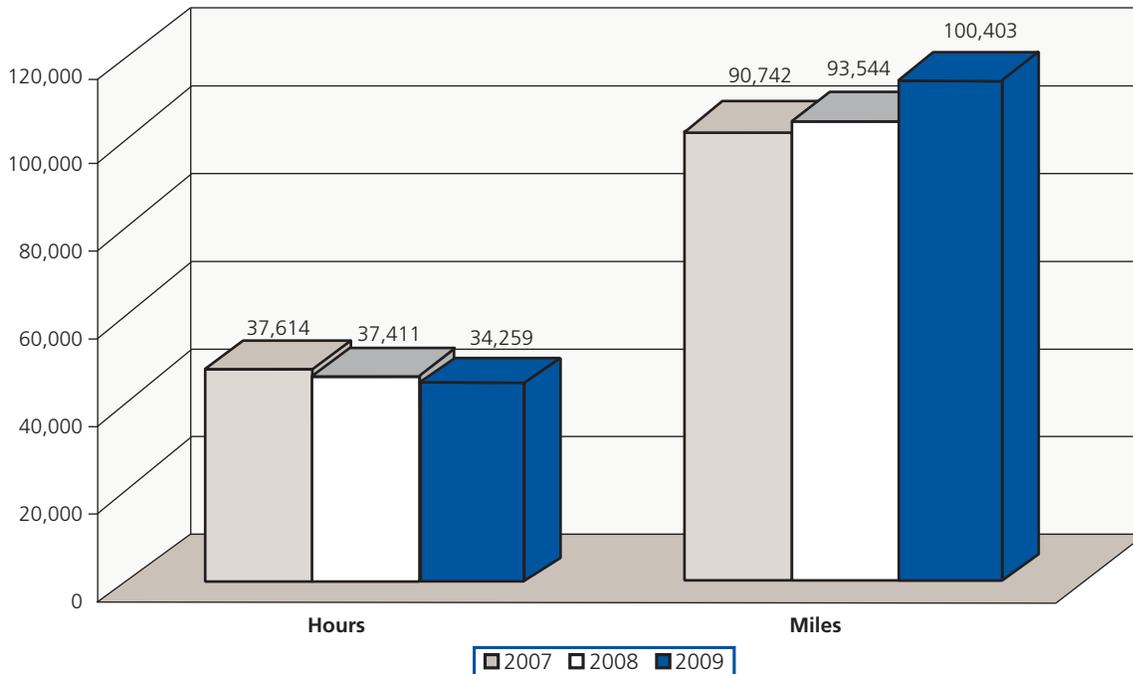


Armeta Coley, Regional Ombudsman and Kathryn Lanier, Ombudsman Program Specialist with DAAS, reviewing ODIS-NC.

### Number of Community Advisory Committee Volunteers per Region



### Community Advisory Committee Volunteer Hours and Miles Contributed through the LTC Ombudsman Program





## Complaint Management Summary – 2009

A major role of the N. C. Long Term Care Ombudsman Program is to receive and to attempt to resolve complaints made by or on behalf of residents in long term care facilities. The federal Older Americans Act, as amended in 2000, and North Carolina General Statute mandate that certified representatives of the Long Term Care Ombudsman Program provide direct access and advocacy services to nursing home and to adult care home residents and timely assistance in resolving their grievances about issues impacting their quality of life or quality of care. Long term care ombudsmen initially respond to complaints by scheduling a visit with the resident in the facility in order to discuss the grievances that were made and to confirm that the resident wants assistance with addressing their complaints with facility management. When complaints are received on behalf of a cognitively impaired resident, an ombudsman will schedule a meeting with both the resident's legal representative and the resident so that within his or her capacity to do so, the resident can actively participate in the discussion of the problems and express their preferred outcomes for resolution of the issues.

Long Term Care Ombudsmen utilize informal grievance resolution that may include mediation to assist residents, their family members and representatives of facility management with resolving complaints. Most of the complaints handled through the Long Term Care Ombudsman Program involve Residents' Rights violations including complaints that they have been unable to exercise their rights while living in a long term care facility. In North Carolina, the long term care ombudsmen are not authorized to investigate allegations of abuse, neglect or exploitation or other serious regulatory violations. Instead, an ombudsman's role is to provide information and assistance to the complainant to ensure that such complaints are directed to Adult Protective Services staff within the appropriate county department of social services.

After Complaint Case Records are closed, long term care ombudsmen enter all complaint data into the Ombudsman Documentation and Information System. The Older Americans Act and State statute require that this reporting system be a confidential data base accessible only by certified long term care ombudsmen. Complaint and programmatic data are compiled into an annual program report that is submitted to the U. S. Administration on Aging through the national Ombudsman Reporting

Tool (ORT). The Administration on Aging collects, analyzes and verifies information submitted from all states and then publishes the data on its web site: [www.aoa.gov](http://www.aoa.gov).

During 2009, the North Carolina Long Term Care Ombudsman Program closed 1,661 individual cases that included a total of 3,441 complaints. Compared to 2008 totals, there was a 10% increase in the number of individuals filing complaints and a slight decrease in the number of complaints per case (2.1) that were responded to by the Long Term Care Ombudsman Program.

A brief review of Program complaint trends for 2009 indicates the following:

- 2,175 nursing home and 1,266 adult care home complaints were processed by representatives of the N. C. Long Term Care Ombudsman Program.
- Overall, the percentage of complaints resolved (76%) during 2009 remained about the same as the previous year.
- 2,245 complaints (65%) were resolved to the satisfaction of the resident or complainant.
- 356 complaints (10%) were partially resolved.
- 372 complaints (11%) investigated by program

representatives resulted in a determination that there was no further action to be taken.

- 194 complaints (6%) were withdrawn by the resident or complainant prior to completion of an investigation.
- 56 complaints (2%) could not be resolved to the satisfaction of the resident or complainant.

**Examples:**

- *Residents expressing concerns about direct care workers working double shifts because the long term care facility refused to hire fill-in staff.*
- *Complaints from family members and residents about staff rudeness.*

Two (2) complaints are included in this category that could not be addressed until changes are made in current regulations or legislative action is taken to amend current laws.

**Examples:**

- *An adult care home resident was discharged from a facility for non-payment because a family member had*

*signed the admissions contract which stated they would pay the full private rate. The resident was later approved for State/County Special Assistance. The State Appeals Hearing Office upheld the facility's right via the contract to continue to charge the full private rate, even though the resident was receiving State/County Assistance because the family member had signed the contract.*

- *A group of residents whose care was supported by Medicaid*

*were all moved out of their rooms due to a facility's plan to convert the wing to "rehab care." The residents were very upset and wanted to continue living in "their" rooms. Current regulations allow movement within a long term care facility from one Medicaid bed to another with as little as 24-hours notice to the resident.*

- 218 complaints (6%) were referred to other agencies and either a final disposition was not obtained or the agencies did not substantiate the complaints.

<b>Complaint Disposition</b>	<b>2008</b>	<b>%</b>	<b>2009</b>	<b>%</b>
Resolved	2,261	67	2,245	65
Partially Resolved	301	9	356	10
No Action Needed	369	11	372	11
Withdrawn	184	5	194	6
Not resolved	84	2	56	2
Referred to another agency	199	6	218	6
<b>Total Complaints</b>	<b>3,398</b>	<b>100</b>	<b>3,441</b>	<b>100</b>

Charts incorporated in this year's annual report offer visual comparisons of statewide complaint trends separately for nursing facilities and adult care homes and then broader comparisons based on total complaints. Some examples include:

- 1) A three-year comparison of five major categories;
- 2) A four-year comparison of major types of abuse complaints;
- 3) Abuse complaints in nursing facilities;
- 4) Three-year trends in facility discharges;
- 5) Sources of complaints;
- 6) Final disposition of complaints;
- 7) Regional complaint trends; and
- 8) Complaint distribution by type of facility.

Tables located on pages 11 and 12 reflect this year's accomplishments in the areas of consumer technical assistance and consultation, community education events and facility staff in-service education. Technical assistance and consultation provided to residents, families and the public increased 19% and consultations with facility staff increased 7%. Compared to 2008 data, facility staff in-service education sessions increased 23%.

There was a 21% increase in the number of community education events.

State and regional long term care ombudsmen have conducted Elder Abuse Prevention and Awareness activities for years which historically were incorporated into the broader category of community education. We now specifically track the Program's outreach efforts to educate residents, families, staff and other consumers about elder abuse: what it is, how to report it and how prevention-focused actions may avert occurrence.

Data for 2009 indicates that the number of complaints in several sub-categories included under each of the five (5) major complaint categories in the national Ombudsman Reporting Tool continued to increase:

- Residents' Rights
- Resident Care
- Quality of Life
- Administration
- Not Against Facility

Each category indicated above contains multiple sub-categories of specific types of complaints that allow a detailed review of changes in complaint trends that potentially impact that specific facet of resident care or quality of life. The following

chart compares changes for selected sub-categories noted for 2009. Increases in these sub-category complaints are important because of the implied negative impact

on residents' autonomy and quality of life. The total number of complaints listed in each of the following sub-categories increased by 18% for FFY 2009.

<b>Complaint Sub-Category</b>	<b>2008</b>	<b>2009</b>
Dignity, Respect and Staff Attitudes	234	263
Personal Property Lost, Stolen, Used by Others	52	66
Medications-administration, organization	115	127
Staff unresponsive, unavailable	53	70
Billing/charges-notice, accounting wrong or denied	162	181
Accidents or injury of unknown origin, falls	74	76
Administrator unresponsive, unavailable	34	41
Financial Exploitation or neglect by family or other	11	21
Therapies-physical, occupational, speech	25	40
Community interaction, transportation	48	61
Shortage of staff	113	135
<b>Totals</b>	<b>635</b>	<b>752</b>

The Office of the State Long Term Care Ombudsman has continued to closely monitor the fluctuation between nursing home complaints and adult care home complaints in response to ongoing concerns about the impact of this trend on the Long Term Care Ombudsman Program's service delivery patterns and the Program's compliance with the Older Americans Act mandate to ensure that residents have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance. Since 2001, the N. C. Long Term Care Ombudsman Program has been challenged with how to balance the Program's mandated presence for residents in nursing facilities while at the same time providing a timely response to an increasing number of younger complainants residing in adult care homes. Many nursing facility residents are confronted with major physical and medical barriers that many times impede their ability to actively locate and request the assistance of a long term care ombudsman for help with resolution of Residents' Rights violations. It is crucial that regional ombudsmen manage their time to ensure that direct services are provided equitably in the different long term care settings. The Long Term Care Ombudsman Program operates under the regulations established in the Older Americans Act, as amended. Language in the Older Americans Act defines the Long

Term Care Ombudsman Program's target population as persons aged 60 and over who are living in a long term care facility. However, federal interpretation has since allowed long term care ombudsmen to assist younger adults with disabilities with rights complaints while they reside in a long term care facility, but only to the extent that doing so does not decrease or weaken services to older individuals residing in nursing facilities.

Complaint data for 2008 indicated that the number of complaints received by or on behalf of nursing home residents increased for the first time since 2003. Complaint data for 2009 indicates an additional slight increase in the number of nursing home complaints along with a decrease in the number of complaints from adult care home residents. One factor that may have influenced this slight shift is that the Office of the State Long Term Ombudsman has diligently continued to present regional ombudsmen with additional resources and training related to re-directing some younger residents experiencing very complex problems to other more appropriate agencies such as the Local Management Entities, the Division of Mental Health, Developmental Disabilities and Substance Abuse, Advocacy and Customer Services Team, Disability Rights North Carolina and county departments of social services.

## ***I'm Not Nosey, Just Concerned***

*Molly was admitted to an adult care home several months ago, although she wasn't quite clear on why she was there. Molly remembered that she was living in her own home and doing fine. The next thing she remembers is arriving at the adult care home and being told that she had suffered a stroke, which had affected her short-term memory.*

*Molly didn't have any family living in the area other than a niece who was her responsible party. Molly was upset because her niece wouldn't tell her how much money she had in her account or what had happened to her home, her car or any of her belongings. Her niece wouldn't give her any spending money, even though Molly thought she should have money in the bank. Molly felt like she was left in the dark.*

*Sally and Molly had become good friends so Sally offered to help Molly find answers to these questions. Sally contacted the regional ombudsman for assistance in advocating for Molly. The*

*regional ombudsman visited both women and learned firsthand about the concerns Molly had been sharing with her roommate. Sally attested to the fact that whenever Molly's niece visited, she always made excuses as to why she couldn't give Molly any spending money. She refused to give Molly any answers about her personal property and wouldn't even allow Molly to have her purse which contained her driver's license and other important information. While Molly had some short-term memory loss, she did retain sufficient capacity to express her suspicions about her niece. She said that her niece had a criminal history and she did not trust her to manage her affairs.*

*Molly gave the regional ombudsman consent to assist her with her concerns. The regional ombudsman met with the business office manager who shared that the niece had not been keeping up with Molly's bill at the facility. The staff was concerned about the niece and her behavior towards her aunt, but had not taken any action to address what they were seeing and hearing. When questioned*

about their reluctance to act they stated, "Because she was private pay and the niece was handling her finances, we felt we couldn't get involved." The niece had told staff she was POA, but had never produced any paperwork to verify it. The staff had asked the niece about providing Molly with spending money for personal needs. The niece said she would give her aunt \$40 a month, but to the best of anyone's knowledge, she never followed through on this promise. The staff thought that perhaps the niece was spending down Molly's money so that she would be eligible to qualify for Special Assistance, but they were not sure. The regional ombudsman advised the facility that they had an obligation to intervene in an effort to protect this resident. The regional ombudsman requested that the business office manager call the niece and schedule a family meeting later in the week to discuss the overdue balance. Later that week, the business office manager called me and shared that the niece never arrived for the meeting, but she did call and demand that Molly be switched to a different

room away from Sally. The staff asked Molly if she wanted to switch rooms and she refused.

At that time, the regional ombudsman contacted Adult Protective Services. Over the next couple of months, the regional ombudsman worked in partnership with APS to address this situation. APS immediately froze Molly's accounts and redirected her pension and SS check to the adult care home. At that time, she had \$62 left in her checking account and 41 cents left in her savings account. During the course of the investigation, the bank verified that Molly had previously had thousands of dollars in the bank. Once the niece learned the accounts were frozen, she came to the adult care home and was very irate. The staff said she smelled of alcohol. Molly called the regional ombudsman and was frightened. The regional ombudsman then contacted both the APS worker and facility staff and asked them not to allow Molly's niece to visit her anymore. Law enforcement was also contacted since this appeared to be a classic

*example of financial exploitation. To date criminal charges are still pending against the niece.*

*During this time, a new administrator was hired at the adult care home. She was directed by the corporate office to issue discharge notices to all the residents who were overdue on their accounts. As a matter of practice, the regional ombudsman is faxed copies of all transfer/discharge notices. In the stack of approximately 20 notices, the regional ombudsman happened to see a notice with Molly's name on it. The regional ombudsman immediately called the administrator and updated her on the reason for Molly's overdue balance. The administrator stated that she was sorry for Molly's*

*unfortunate situation, but she had a business to run and Molly could not stay there with an overdue balance. The regional ombudsman contacted the APS worker who worked with the administrator to have the notice rescinded.*

*Shortly after this event, the local department of social services became Molly's legal guardian. Molly was able to return to her home and sort through her personal belongings. Today, Molly is still a resident of the adult care home. The regional ombudsman visits her often and is pleased to see her happy and doing very well. This is an example of what can happen when everyone takes an interest and takes action to protect vulnerable residents.*



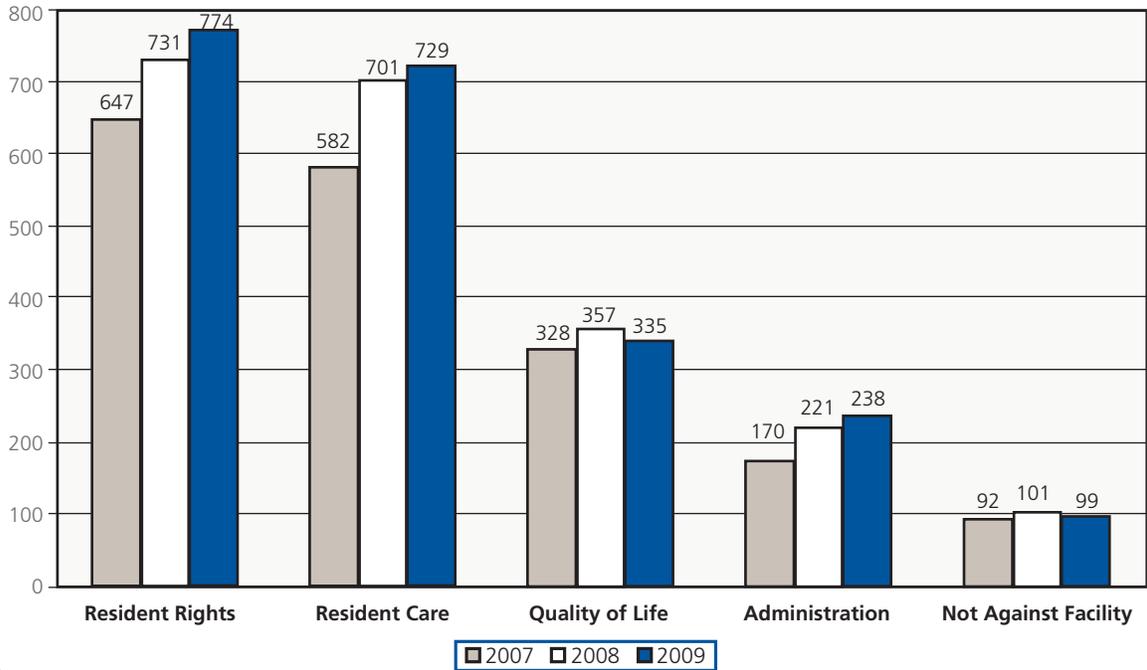
# North Carolina Nursing Homes

2009

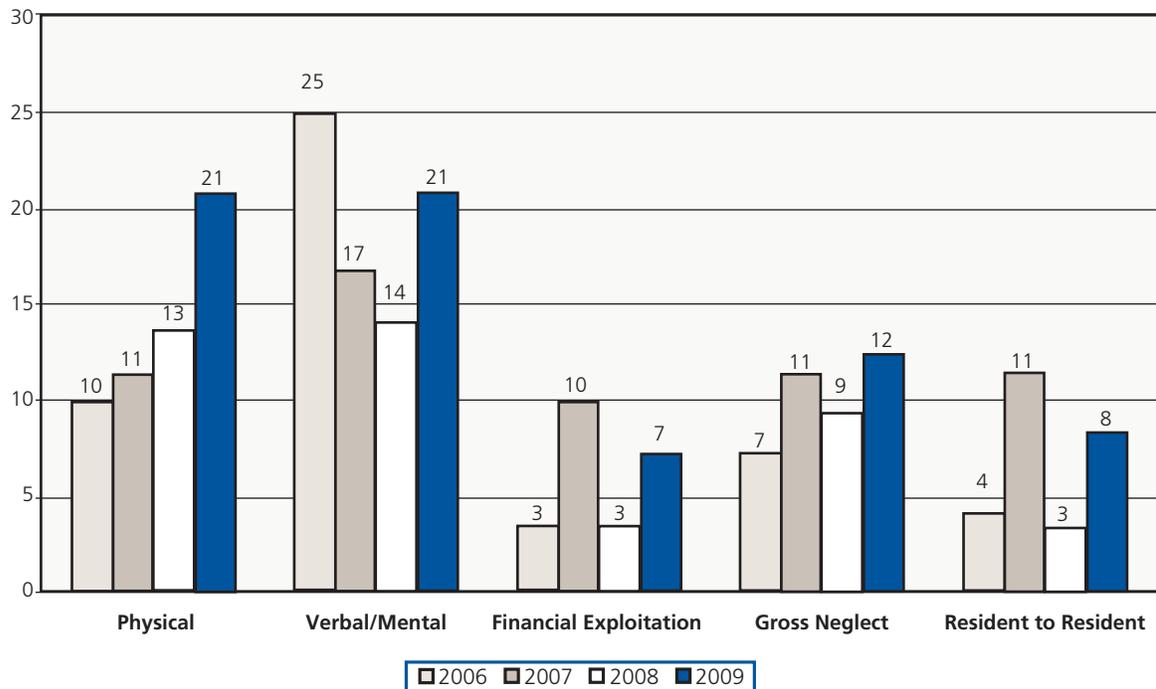
Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Nursing Homes	443	49,722



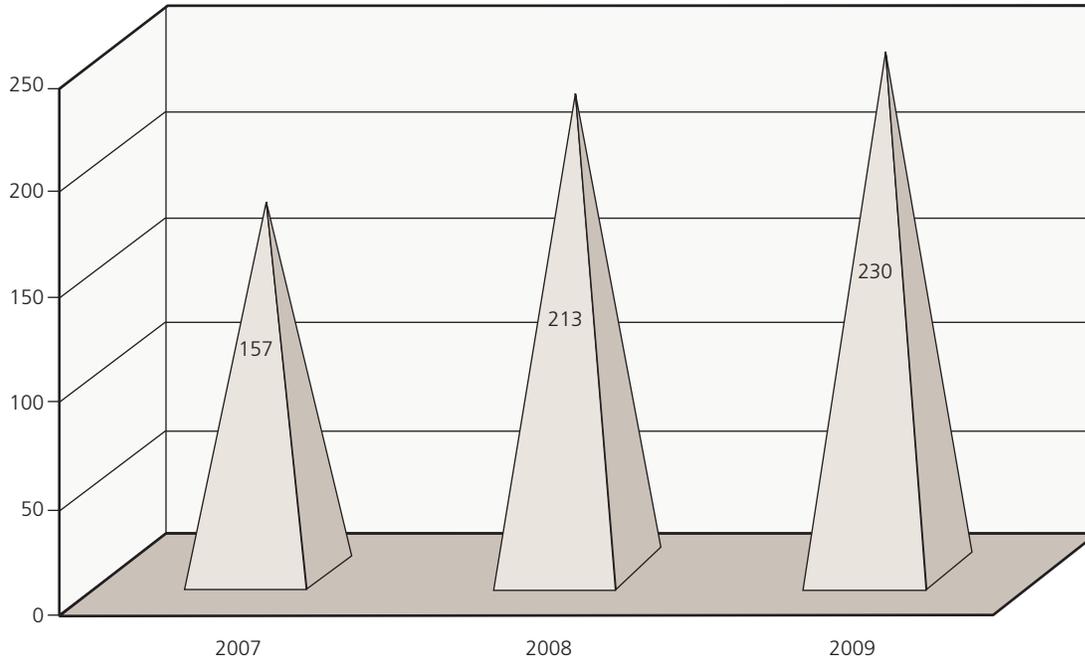
### Three-Year Comparison of Nursing Home Complaints FFY 2007 - FFY 2009



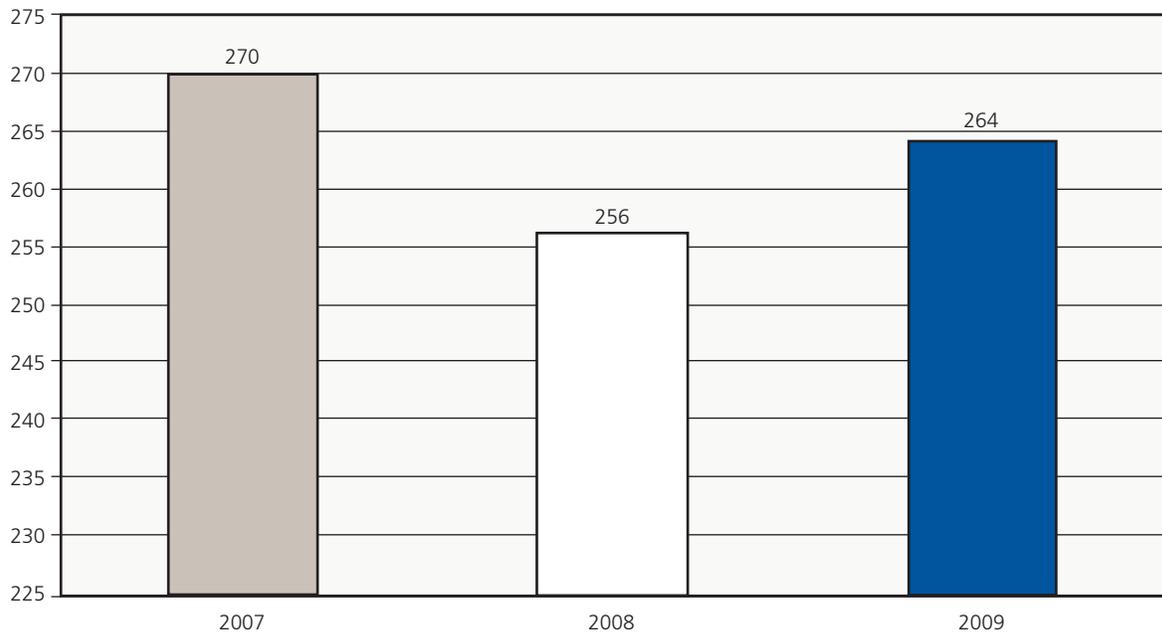
### Four-Year Comparison of Abuse Complaints in Nursing Homes FFY 2006 - FFY 2009



### Complaints about Nursing Home Discharge Plans/Procedures FFY 2007 - FFY 2009



### Number of Nursing Home Residents Who Filed Complaints FFY 2007 - FFY 2009



## **Some Like it Hot...**

*There's nothing like a steaming hot cup of coffee first thing in the morning or a glass of ice cold water when you're extremely hot. No one knows this better than residents of long term care facilities. It may seem like a very simple or inconsequential expectation, but when you look at it in terms of residents' rights, it takes on a completely new meaning. Luckily, dedicated members of a local Nursing Home Community Advisory Committee took the concerns of residents regarding the temperature of food and beverages seriously.*

*The committee members were very pleased to hear positive comments from residents and realize the recommendations they made to administration had not been ignored. During an exit interview, members expressed to the administrator the positive comments they heard from residents about the improvement in food service at the facility. They specifically talked about how the temperatures of the various foods served were "good." The administrator*

*was happy to hear this and went on to share with the committee that the facility had recently received a new tray system to maintain food and fluid temperatures. She said, "One very big reason the facility received this upgrade in the system was due to prior feedback from the local Nursing Home Community Advisory Committee visits." There had previously been complaints of cold food. This information was forwarded to the corporate office of the facility and they made the decision to invest in this important upgrade. The administrator said, "The committee's visits give me important information from an outside source that helps me receive funds for improving the lives of the residents."*

Former – Nursing Home CAC Member



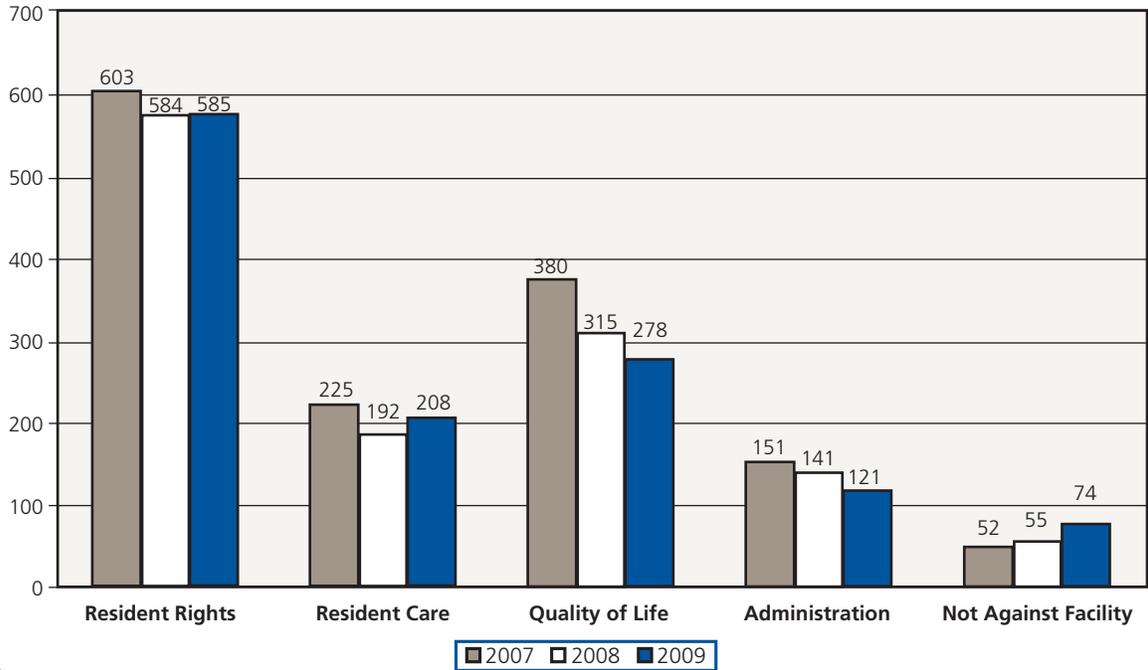
# North Carolina Adult Care Homes

2009

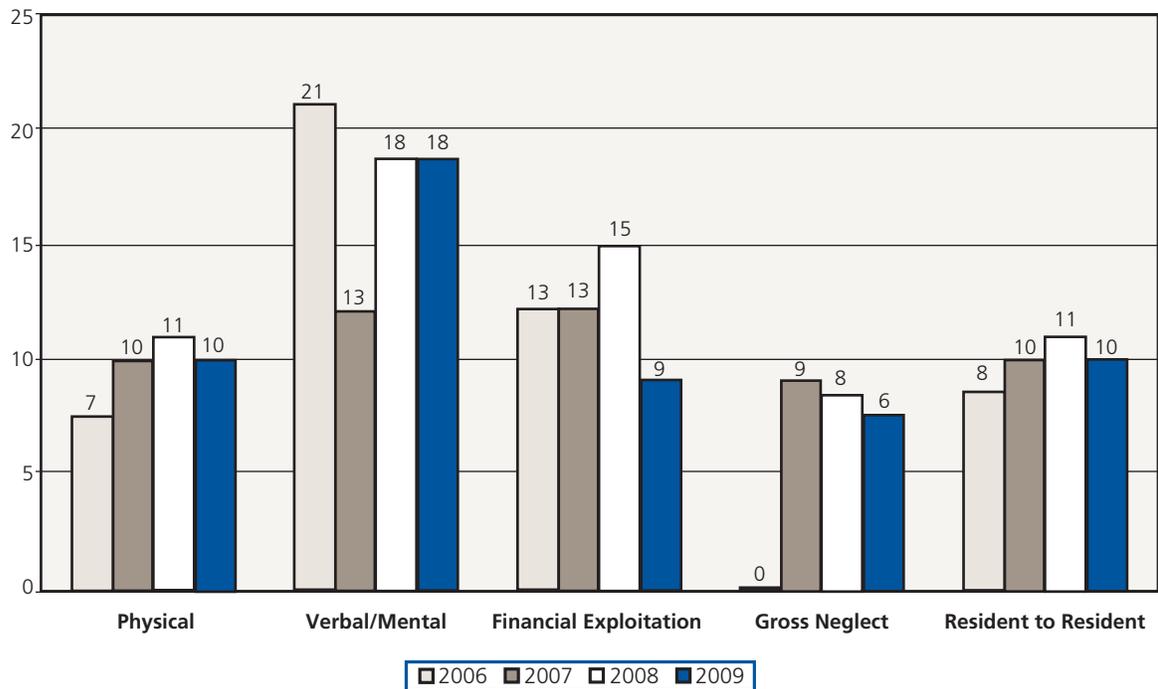
Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Adult Care Homes	1,257	40,060



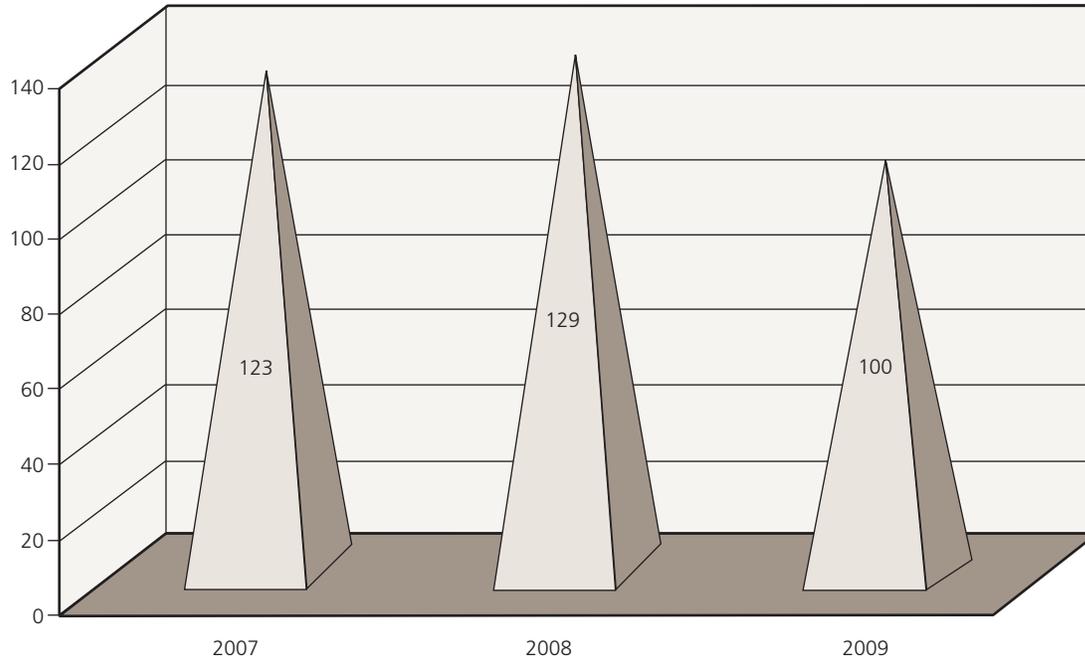
### Three-Year Comparison of Adult Care Home Complaints FFY 2007 - FFY 2009



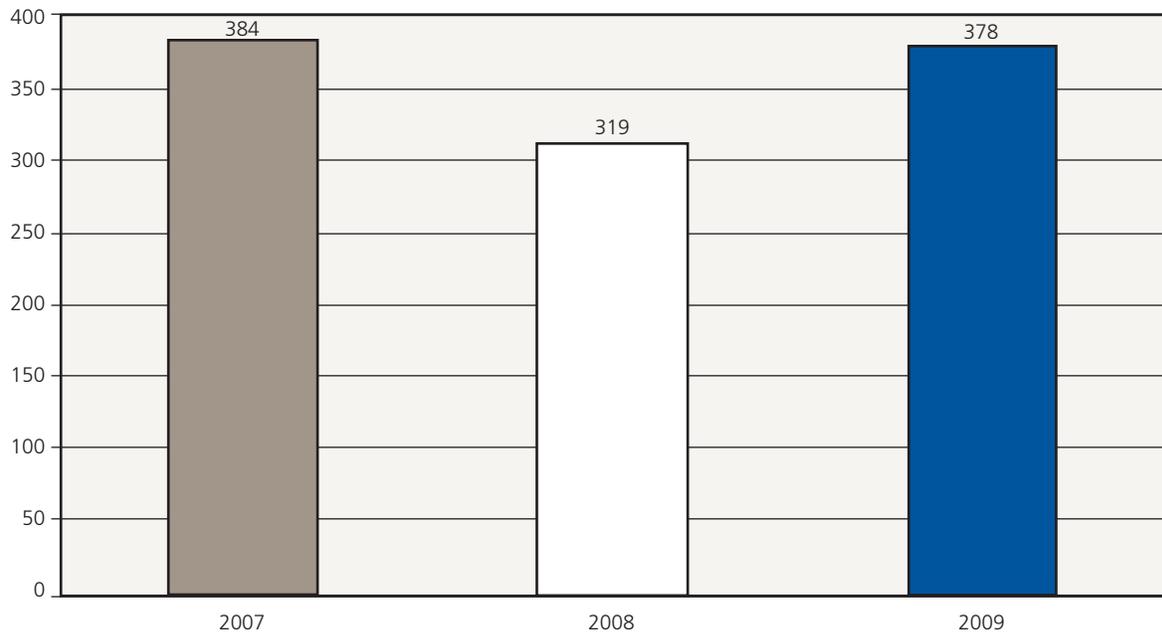
### Four-Year Comparison of Abuse Complaints in Adult Care Homes FFY 2006 - FFY 2009



### Complaints about Adult Care Homes Discharge Plans/Procedures FFY 2007 - FFY 2009

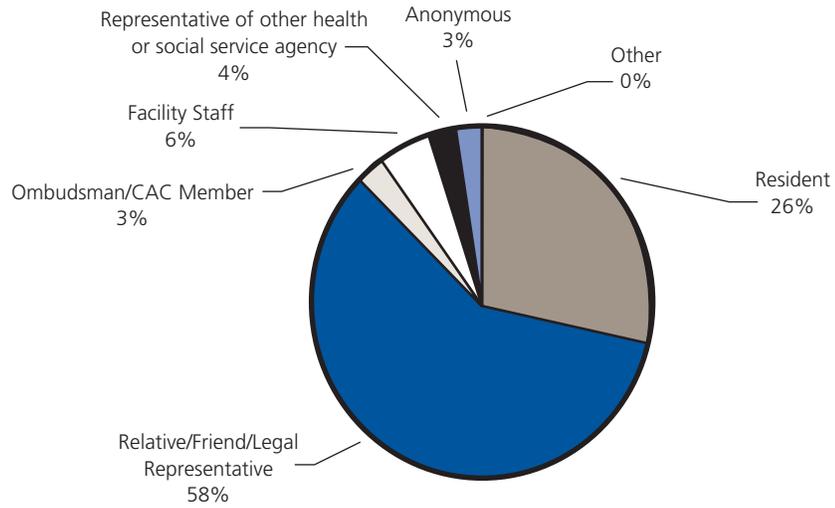


### Number of Adult Care Home Residents Who Filed Complaints FFY 2007 - FFY 2009

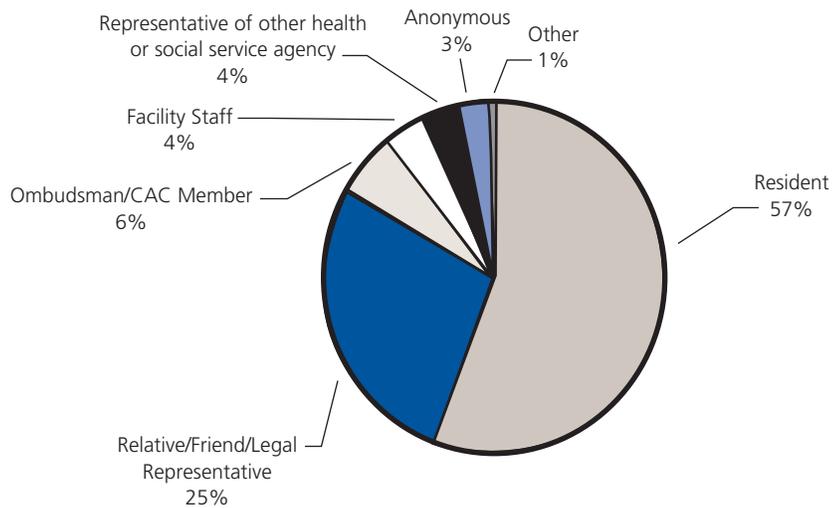


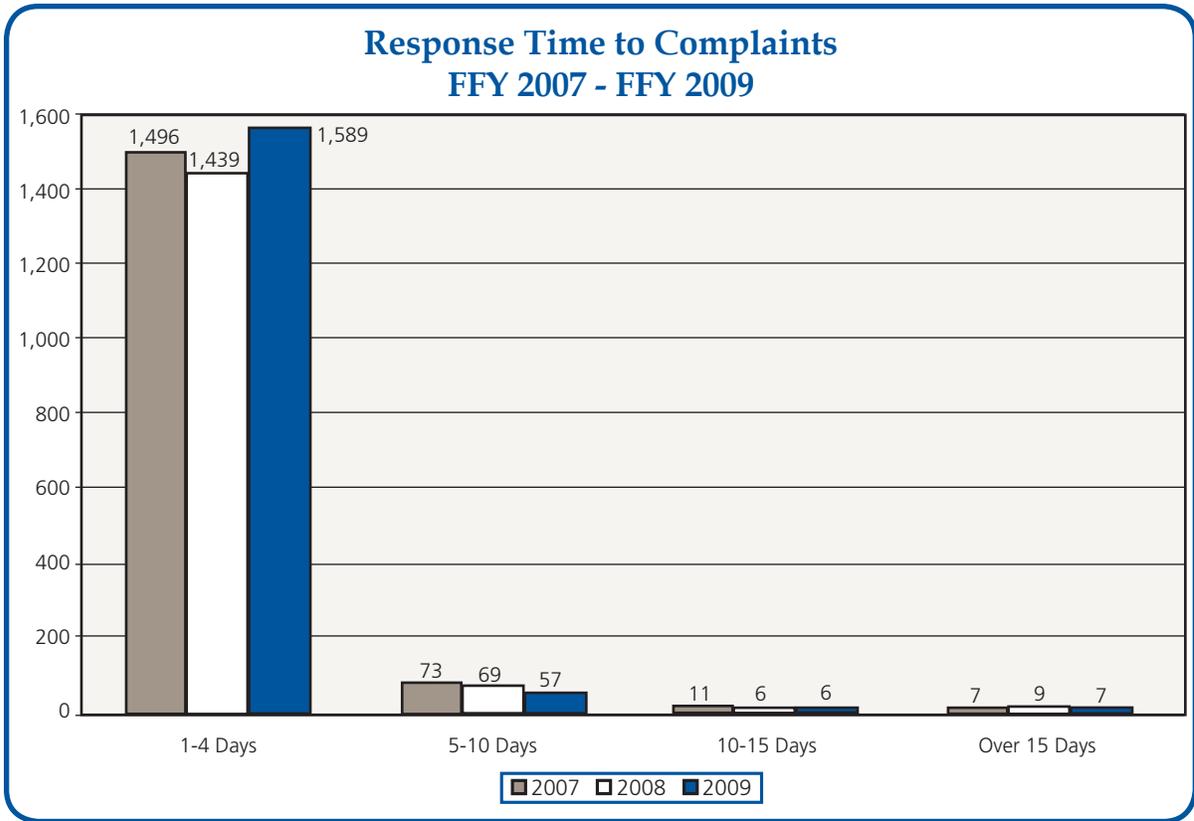


### Nursing Home Complainants 2009



### Adult Care Home Complainants 2009

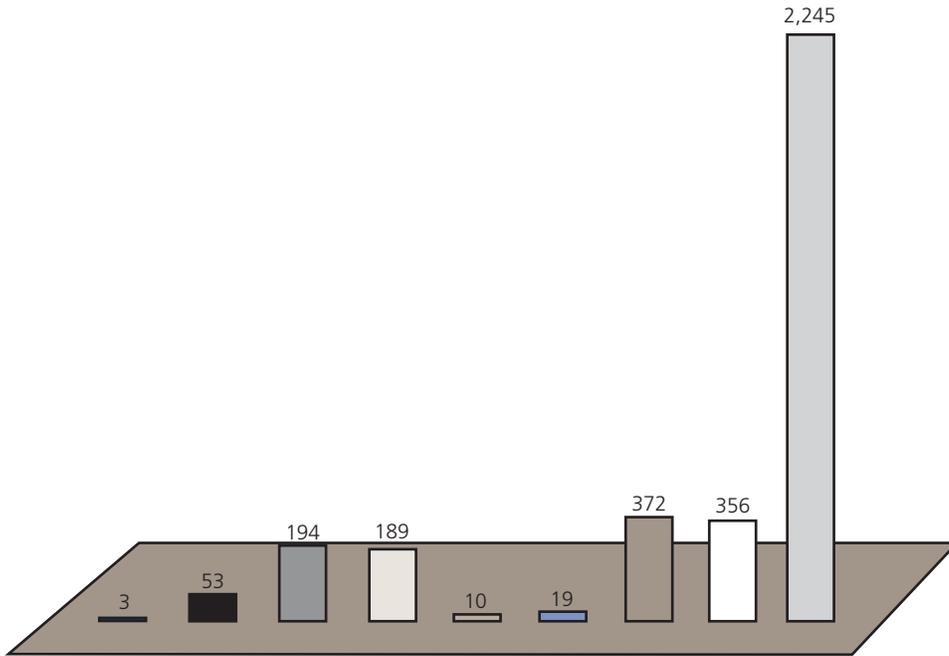




**Note:**

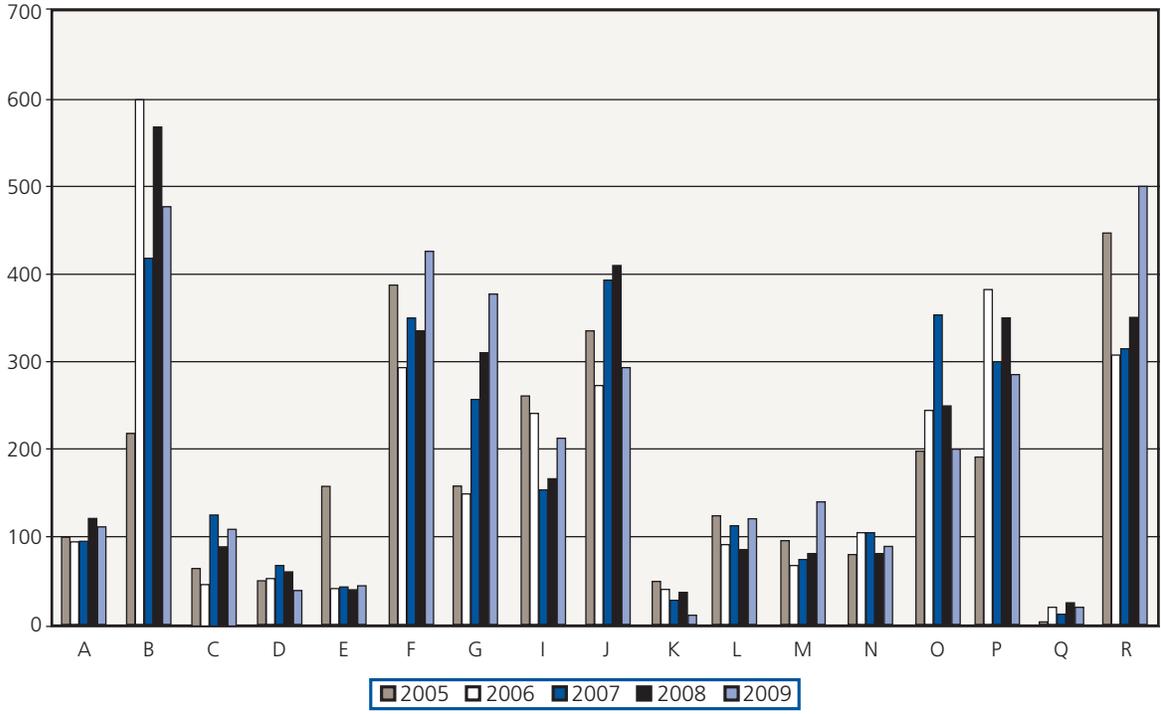
N.C. Long Term Care Ombudsman Program Policy requires that when a regional ombudsman receives a complaint directly that they visit the resident within one to four working days. Due to heavy workloads and large geographical coverage areas, occasionally this timeframe cannot be met; however, every effort is made to ensure a visit with the resident as soon as possible. This policy reflects both state and federal law that mandates the resident is the identified client to whom a regional ombudsman must directly respond and offer services in a timely manner.

### Disposition of Adult Care Home and Nursing Home 2009 Complaints

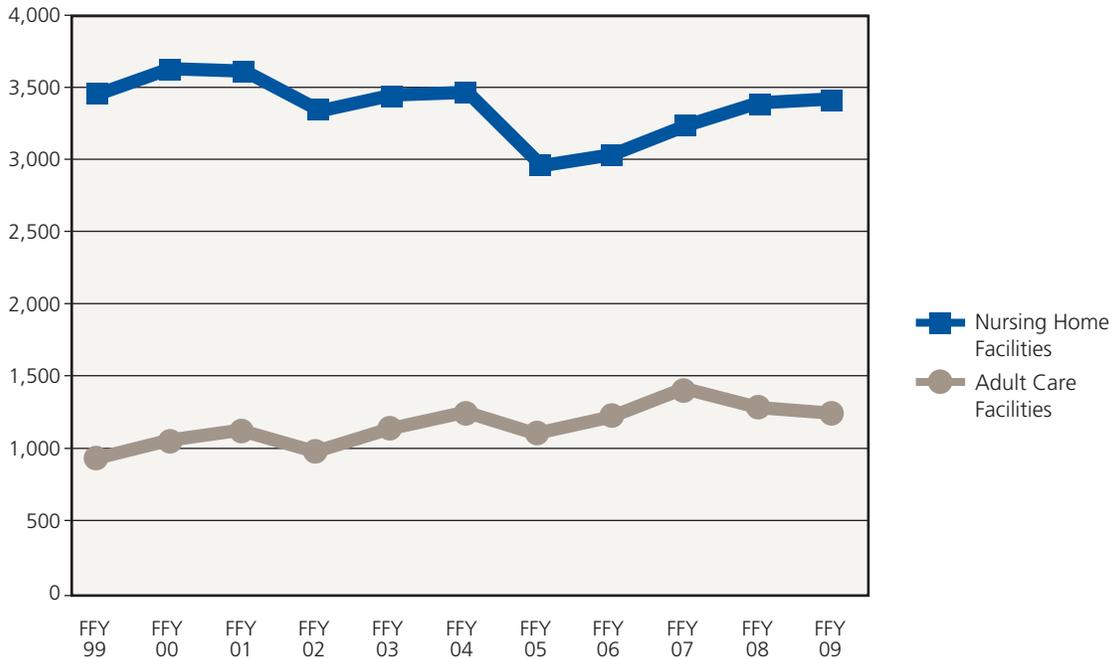


- Government policy or regulatory change or legislative action is required
- Not resolved to satisfaction of complainant
- Withdrawn by the resident or resident died before final outcome
- Referred to other agency but final disposition not obtained
- Referred to other agency but other agency failed to act
- Referred to other agency for resolution but unsubstantiated
- No action was needed
- Partially resolved
- Resolved

### Five Year Comparison of Complaint Trends by Region FFY 2005 - FFY 2009



### Ombudsman Program Complaint Trends by Facility Type FFY 1999 - FFY 2009



## 5 Most Frequent Complaints in Nursing Homes

Complaint Category	Number of Complaints	Percentage of Total Complaints: 2,175
Discharge/eviction-planning notice, procedures	230	10.5%
Dignity, respect, staff attitudes	151	6.9%
Personal hygiene-nail care and oral hygiene and adequacy of dressing and grooming	132	6%
Shortage of staff	104	4.7%
Failure to respond to requests for assistance	99	4.5%

## 5 Most Frequent Complaints in Adult Care Homes

Complaint Category	Number of Complaints	Percentage of Total Complaints: 1,266
Dignity, respect, staff attitudes	112	8.8%
Discharge/eviction-planning notice, procedures	100	7.8%
Billing/charges – notice, approval, questionable, accounting wrong or denied	97	7.6%
Medications – administration, organization	69	5.4%
Food service- quantity, quality, variation, choice, condiments, utensils, menu	61	4.8%



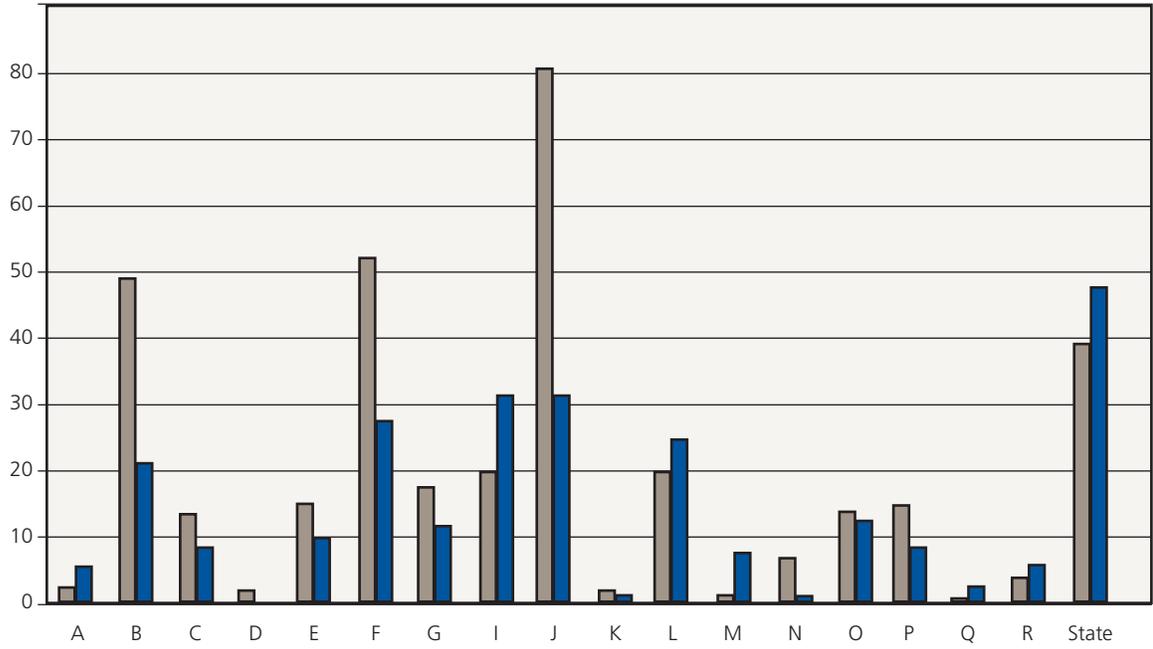
## Elder Abuse Prevention and Awareness Education

Data available through the Ombudsman Complaint Tracking System indicate that **493 educational presentations** conducted for either long term care facility staff or community groups through the Long Term Care Ombudsman Program focused on topics related to **Elder Abuse Prevention and Awareness**.

Presentations about Abuse, Neglect, Financial Exploitation and How to Recognize and Report Suspected Elder Abuse reached an estimated **14,756** unduplicated persons. State level and regional ombudsmen made **265 referrals to local Adult Protective Services during FFY 2009**.



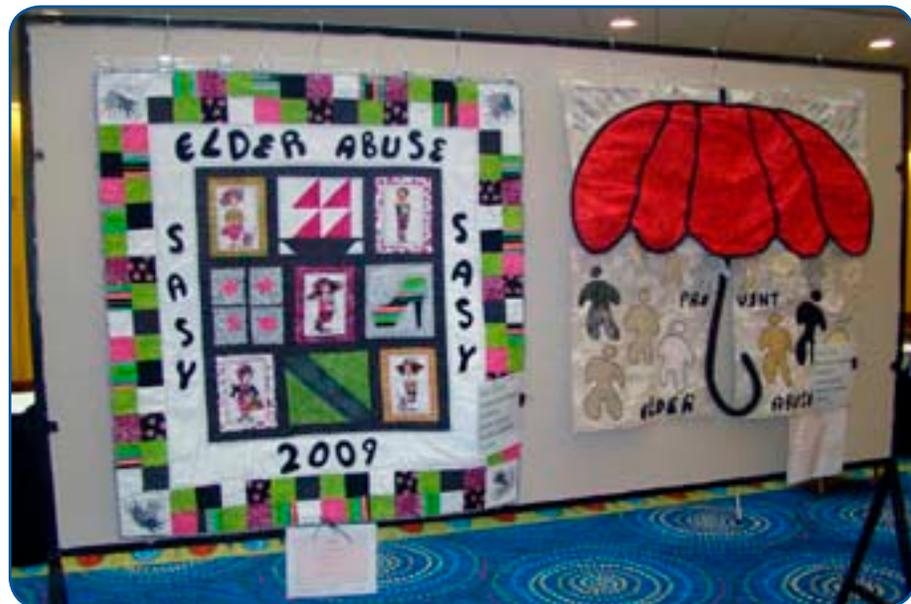
### Referrals to County Adult Protective Services from N.C. Long Term Care Ombudsman Program FFY 2008 vs FFY 2009



## Elder Abuse

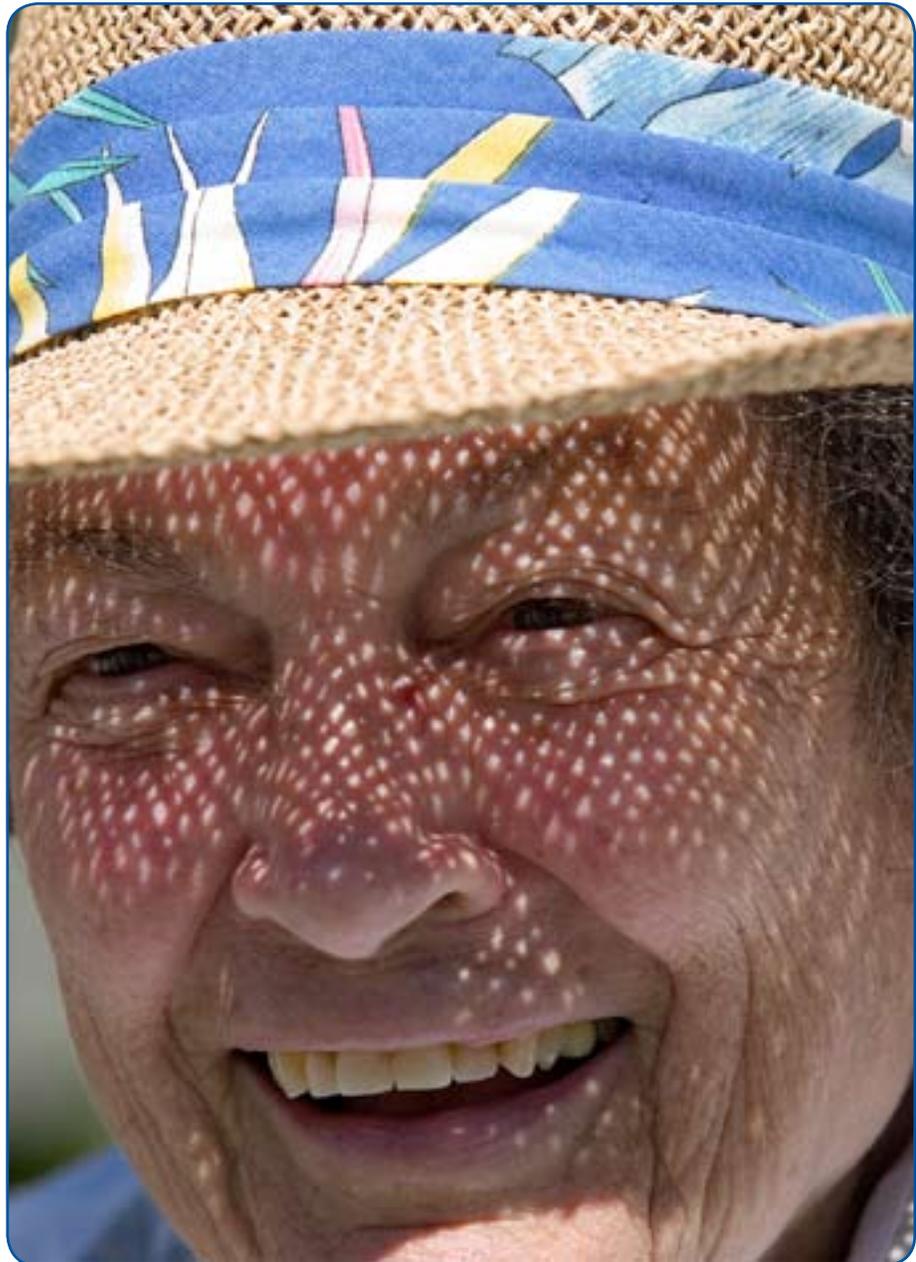
In honor of National Elder Abuse Awareness Day, the **Mid-East Commission, Area Agency on Aging, Long Term Care Ombudsman Program** along with **Violence in Aging Council** sponsored a quilting show. Quilting materials were donated by Mid-East Commission, Area Agency on Aging, ombudsman program and area businesses.

Regional guilders showed off their talents by creating “elder abuse awareness” themed quilts. The project received national recognition in the *National Center for Elder Abuse Newsletter* in August 2008. The elder abuse quilts were displayed at the National Conference for Elder Abuse Awareness which was held in Minnesota, Minneapolis on September 30-October 1, 2009.





## Appendices





# Appendix A

## North Carolina Adult Care Home Bill of Rights (Condensed Version)

### Every resident shall have the following rights:

1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
16. To receive upon admission to the facility a copy of this section.
17. To not be transferred or discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal.

**The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.**

**Your Regional Ombudsman is:** \_\_\_\_\_ **Telephone:** \_\_\_\_\_

## North Carolina Bill of Rights for Nursing Home Residents (Condensed Version)

### Every resident shall have the following rights:

1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
7. To receive from the administrator or staff of the facility a reasonable response to all requests.
8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
9. To manage his/her own financial affairs unless other legal arrangements have been so ordered.
10. To have privacy in visits by the patient's spouse.
11. To enjoy privacy in his/her own room.
12. To present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.
13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

**The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.**

**Your Regional Ombudsman is:** \_\_\_\_\_ **Telephone:** \_\_\_\_\_

# Appendix B

## Data Tables from N.C. Ombudsman Reporting Tool

<b>Part I - Cases, Complainants and Complaints</b>		
<b>D. Types of Complaints, by Type of Facility</b>		
Below and on the following pages provide the total number of complaints for each specific complaint category, for nursing facilities and board and care or similar type of adult care facility. The first four major headings are for complaints involving action or inaction by staff or management of the facility. The last major heading is for complaints against others outside the facility. See Instructions for additional clarification and definitions of types of facilities and selected complaint categories.		
	<b>Nursing Facility</b>	<b>B&amp;C, ALF, RCF, etc.</b>
<b>Residents' Rights</b>		
<b>A. Abuse, Gross Neglect, Exploitation</b>		
1. Abuse, physical (including corporal punishment)	21	7
2. Abuse, sexual	0	3
3. Abuse, verbal/psychological (including punishment, seclusion)	21	18
4. Financial exploitation (use categories in section E for less severe financial complaints)	7	9
5. Gross neglect (use categories under Care, Sections F & G for non-willful forms of neglect)	12	6
6. Resident-to-resident physical or sexual abuse	8	10
7. Not Used		
<b>B. Access to Information by Resident or Resident's Representative</b>		
8. Access to own records	5	4
9. Access by or to ombudsman/visitors	11	10
10. Access to facility survey/staffing reports/license	0	0
11. Information regarding advance directive	3	0
12. Information regarding medical condition, treatment and any changes	22	4
13. Information regarding rights, benefits, services, the resident's right to complain	10	3
14. Information communicated in understandable language	3	1
15. Not Used		
<b>C. Admission, Transfer, Discharge, Eviction</b>		
16. Admission contract and/or procedure	2	5
17. Appeal process - absent, not followed	12	3
18. Bed hold - written notice, refusal to readmit	6	0
19. Discharge/eviction - planning, notice, procedure, implementation, inc. abandonment	230	100
20. Discrimination in admission due to condition, disability	6	0
21. Discrimination in admission due to Medicaid status	1	1
22. Room assignment/room change/intrafacility transfer	19	10
23. Not Used		
<b>D. Autonomy, Choice, Preference, Exercise of Rights, Privacy</b>		
24. Choose personal physician, pharmacy/hospice/other health care provider	2	4
25. Confinement in facility against will (illegally)	13	25
26. Dignity, respect - staff attitudes	151	112
27. Exercise preference/choice and/or civil/religious rights, individual's right to smoke	30	16
28. Exercise right to refuse care/treatment	6	10
29. Language barrier in daily routine	0	0
30. Participate in care planning by resident and/or designated surrogate	27	17
31. Privacy - telephone, visitors, couples, mail	9	20
32. Privacy in treatment, confidentiality	2	4
33. Response to complaints	11	11
34. Reprisal, retaliation	4	8
35. Not Used		
<b>E. Financial, Property (Except for Financial Exploitation)</b>		

36. Billing/charges - notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)	84	97
37. Personal funds - mismanaged, access/information denied, deposits and other money not returned (report criminal-level misuse of personal funds under A.4)	7	30
38. Personal property lost, stolen, used by others, destroyed, withheld from resident	29	37
39. Not Used		
<b>Resident Care</b>		
<b>F. Care</b>		
40. Accidental or injury of unknown origin, falls, improper handling	63	13
41. Failure to respond to requests for assistance	99	10
42. Care plan/resident assessment - inadequate, failure to follow plan or physician orders (put lack of resident/surrogate involvement under D.30)	31	9
43. Contracture	5	0
44. Medications - administration, organization	58	69
45. Personal hygiene (includes nail care & oral hygiene) and adequacy of dressing & grooming	132	30
46. Physician services, including podiatrist	10	12
47. Pressure sores, not turned	42	2
48. Symptoms unattended, including pain, pain not managed, no notice to others of changes in condition	67	21
49. Toileting, incontinent care	57	8
50. Tubes - neglect of catheter, gastric, NG tube (use D.28 for inappropriate/forced use)	15	0
51. Wandering, failure to accommodate/monitor exit seeking behavior	13	4
52. Not Used		
<b>G. Rehabilitation or Maintenance of Function</b>		
53. Assistive devices or equipment	38	7
54. Bowel and bladder training	8	0
55. Dental services	11	6
56. Mental health, psychosocial services	10	7
57. Range of motion/ambulation	5	2
58. Therapies - physical, occupational, speech	38	2
59. Vision and hearing	5	1
60. Not Used		
<b>H. Restraints - Chemical and Physical</b>		
61. Physical restraint - assessment, use, monitoring	6	1
62. Psychoactive drugs - assessment, use, evaluation	16	4
63. Not Used		
<b>Quality of Life</b>		
<b>I. Activities and Social Services</b>		
64. Activities - choice and appropriateness	11	20
65. Community interaction, transportation	29	32
66. Resident conflict, including roommates	18	24
67. Social services - availability/appropriateness/ (use G.56 for mental health, psychosocial counseling/service)	8	2
68. Not Used		
<b>J. Dietary</b>		
69. Assistance in eating or assistive devices	32	4
70. Fluid availability/hydration	20	5
71. Food service - quantity, quality, variation, choice, condiments, utensils, menu	54	61
72. Snacks, time span between meals, late/missed meals	6	17

73. Temperature	17	7
74. Therapeutic diet	12	6
75. Weight loss due to inadequate nutrition	7	9
76. Not Used		
<b>K. Environment</b>		
77. Air/environment: temperature and quality (heating, cooling, ventilation, water, noise)	13	16
78. Cleanliness, pests, general housekeeping	30	33
79. Equipment/building - disrepair, hazard, poor lighting, fire safety, not secure	19	14
80. Furnishings, storage for residents	6	7
81. Infection control	4	1
82. Laundry - lost, condition	14	5
83. Odors	16	5
84. Space for activities, dining	0	1
85. Supplies and linens	18	9
85. Americans with Disabilities Act (ADA) accessibility	1	0
<b>Administration</b>		
<b>L. Policies, Procedures, Attitudes, Resources (See other complaint headings, of above, for policies on advance directives, due process, billing, management residents' funds)</b>		
87. Abuse investigation/reporting, including failure to report	8	0
88. Administrator(s) unresponsive, unavailable	24	17
89. Grievance procedure (use C for transfer, discharge appeals)	7	6
90. Inappropriate or illegal policies, practices, record-keeping	4	4
91. Insufficient funds to operate	0	1
92. Operator inadequately trained	1	0
93. Offering inappropriate level of care (for B&C/similar)	18	10
94. Resident or family council/committee interfered with, not supported	2	0
95. Not Used		
<b>M. Staffing</b>		
96. Communication, language barrier (use D.29 if problem involves resident inability to communicate)	0	1
97. Shortage of staff	104	31
98. Staff training	15	8
99. Staff turn-over, over-use of nursing pools	6	1
100. Staff unresponsive, unavailable	41	29
101. Supervision	0	11
102. Eating Assistants	8	2
<b>Not Against Facility</b>		
<b>N. Certification/Licensing Agency</b>		
103. Access to information (including survey)	1	0
104. Complaint, response to	0	2
105. Decertification/closure	0	0
106. Sanction, including Intermediate	0	0
107. Survey process	0	0
108. Survey process - Ombudsman participation	0	0
109. Transfer or eviction hearing	0	0
110. Not Used		
<b>O. State Medicaid Agency</b>		
111. Access to information, application	3	1

112. Denial of eligibility	5	3
113. Non-covered services	1	2
114. Personal Needs Allowance	0	1
115. Services	0	0
116. Not Used		
<b>P. System/Others</b>		
117. Abuse/neglect/abandonment by family member/friend/guardian or, while on visit out of facility, any other person	9	1
118. Bed shortage - placement	3	1
119. Facilities operating without a license	0	0
120. Family conflict; interference	22	13
121. Financial exploitation or neglect by family or other not affiliated with facility	14	7
122. Legal - guardianship, conservatorship, power of attorney, wills	15	17
123. Medicare	2	0
124. Mental health, developmental disabilities, including PASRR	0	3
125. Problems with resident's physician/assistant	12	10
126. Protective Service Agency	2	0
127. SSA, SSI, VA, Other Benefits/Agencies	3	7
128. Request for less restrictive placement	7	6
<b>Total, categories A through P</b>	<b>2,175</b>	<b>1,266</b>
<b>Q. Complaints About Services in Settings Other Than Long-Term Care Facilities or By Outside Provider in Long-Term Care Facilities (see instructions)</b>		
129. Home care	0	
130. Hospital or hospice	0	
131. Public or other congregate housing not providing personal care	0	
132. Services from outside provider (see instructions)	0	
133. Not Used		
<b>Total, Heading Q.</b>	<b>0</b>	
<b>Total Complaints*</b>	<b>3,441</b>	
* (Add total of nursing facility complaints; B&C, ALF, RCF, similar complaints and complaints in Q, above. Place this number in Part I, C on page 1.)		

# Appendix C

## Title VII, Chapter 2, Section 712 2000 Amendments to the Older Americans Act

### SEC 712 (42 U.S.C. 3058g) STATE LONG TERM CARE OMBUDSMAN PROGRAM.

(a) Establishment.--

(1) In general.--In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702 *and made available to carry out this chapter*, a State agency shall, in accordance with this section--

- (A) establish and operate an Office of the State Long Term Care Ombudsman; and
- (B) carry out through the Office a State Long Term Care Ombudsman program.

(2) Ombudsman.--The Office shall be headed by an individual, to be known as the State Long Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long term care and advocacy.

(3) Functions.--The Ombudsman shall serve on a full time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that-

- (i) are made by, or on behalf of, residents and
- (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of
  - (I) providers, or representatives of providers, of long-term care services;
  - (II) public agencies; or
  - (III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

- (D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;
  - (E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
  - (F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;
  - (G)
    - (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State;
    - (ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
    - (iii) facilitate public comment on the laws, regulations, policies, and actions;
  - (H)
    - (i) provide for training representatives of the Office;
    - (ii) promote the development of citizen organizations, to participate in the program; and
    - (iii) provide technical support for the development of resident and family councils to protect the well being and rights of residents; and
  - (I) carry out such other activities as the Assistant Secretary determines to be appropriate
- (4) Contracts and arrangements.--
- (A) In general.--Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
  - (B) Licensing and certification organizations; associations.--The State agency may not enter into the contract or other arrangement described in subparagraph (A) with
    - (i) an agency or organization that is responsible for licensing or certifying long term care services in the State; or
    - (ii) an association (or an affiliate of such an association) of long term care facilities, or of any other residential facilities for older individuals.

- (5) Designation of local ombudsman entities and representatives.--
- (A) Designation.--In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.
- (B) Duties.--An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency

- (i) provide services to protect the health, safety, welfare and rights of residents;
  - (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
  - (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;
  - (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
  - (v)
    - (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
    - (II) facilitate the ability of the public to comment on the laws, regulation, policies, and actions;
  - (vi) support the development of resident and family councils; and
  - (vii) carry out other activities that the Ombudsman determines to be appropriate.
- (C) Eligibility for designation.--Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall--
- (i) have demonstrated capability to carry out the responsibilities of the Office;
  - (ii) be free of conflicts of interest and *not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves*;
  - (iii) in the case of the entities, be public or nonprofit private entities; and

(iv) meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures.--

- (i) In general.--The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
- (ii) Policies.--In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.
- (iii) Confidentiality and disclosure.--The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

(b) Procedures for Access.--

(1) In General. The State shall ensure that representatives of the Office shall have--

- (A) access to long term care facilities and residents;
- (B) (i) appropriate access to review the medical and social records of a resident, if--
  - (I) the representative has the permission of the resident, or the legal representative of the resident; or
  - (II) the resident is unable to consent to the review and has no legal representative; or
- (ii) access to the records as is necessary to investigate a complaint if--
  - (I) a legal guardian of the resident refuses to give the permission;
  - (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
  - (III) the representative obtains the approval of the Ombudsman;
- (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long term care facilities; and
- (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long term care facilities.

(2) Procedures.--The State agency shall establish procedures to ensure the access described in paragraph (1).

- (c) Reporting System.--The State agency shall establish a statewide uniform reporting system to
- (1) collect and analyze data relating to complaints and conditions in long term care facilities and to residents for the purpose of identifying and resolving significant problems; and
  - (2) submit the data, on a regular basis, to--
    - (A) the agency of the State responsible for licensing or certifying long term care facilities in the State;
    - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
    - (C) the Assistant Secretary; and
    - (D) the National Ombudsman Resource Center established in section 202(a)(21).
- (d) Disclosure.--
- (1) In general.--The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
  - (2) Identity of complainant or resident.--The procedures described in paragraph (1) shall
    - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and
    - (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless--
      - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
      - (ii) (I) the complainant or resident gives consent orally; and  
(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
      - (iii) the disclosure is required by court order.
- (e) Consultation.--In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long term care.
- (f) Conflict of Interest.—The State agency shall—
- (1) Ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

- (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
- (3) ensure that the Ombudsman--
  - (A) does not have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
  - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;
  - (C) is not employed by, or participating in the management of, a long term care facility; and
  - (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility; and
- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as--
  - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
  - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) Legal Counsel.--The State agency shall ensure that--
  - (1) (A) adequate legal counsel is available, and is able, without conflict of interest, to--
    - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
    - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
  - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
  - (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) Administration.--The State agency shall require the Office to--

(1) prepare an annual report--

- (A) describing the activities carried out by the Office in the year for which the report is prepared;
- (B) containing and analyzing the data collected under subsection (c);
- (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
- (D) containing recommendations for--
  - (i) improving quality of the care and life of the residents; and
  - (ii) protecting the health, safety, welfare, and rights of the residents;
- (E) (I) analyzing the success of the program including success in providing services to residents of board (and care facilities and other similar adult care facilities; and
  - (ii) identifying barriers that prevent the optimal operation of the program; and
- (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulation, and policies as the Office determines to be appropriate;

- (3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding--
- (i) the problems and concerns of older individuals residing in long term care facilities; and
  - (ii) recommendations related to the problems and concerns; and
- (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

- (4) *strengthen and update* procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long term care providers, and the Office, that--
    - (A) specify a minimum number of hours of initial training;
    - (B) specify the content of the training, including training relating to--
      - (i) Federal, State, and local laws, regulations, and policies, with respect to long term care facilities in the State;
      - (ii) investigative techniques; and
      - (iii) such other matters as the State determines to be appropriate; and
    - (C) specify an annual number of hours of in service training for all designated representatives;
  - (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative--
    - (A) has received the training required under paragraph (4); and
    - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;
  - (6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under--
    - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
    - (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
  - (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means;
  - (8) *coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and*
  - (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).
- (i) Liability.--The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference.--The State shall--

- (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
- (2) prohibit retaliation and reprisals by a long term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
- (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.



# Appendix D

## Long-Term Care Ombudsman Program.

### Part 14D. North Carolina State Long-term Care Ombudsman Program

#### § 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118 (a).)

#### § 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

- (1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) "Resident" means any person who is receiving treatment or care in any long-term care facility.
- (3) "State Ombudsman" means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.
- (4) "Regional Ombudsman" means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

**§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.**

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118 (a).)

**§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.**

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;
- (4) Attempt to resolve complaints made by or on behalf individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;
- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;

- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;
- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;
- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and
- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

**§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.**

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.
- (b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:
  - (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;
  - (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
  - (3) Collect data about the number and types of complaints handled;
  - (4) Work with long-term care providers to resolve issues of common concern;
  - (5) Work with long-term care providers to promote increased community involvement;
  - (6) Offer assistance to long-term care providers in staff training regarding residents' rights;
  - (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
  - (8) Provide training and technical assistance to the community advisory committees; and
  - (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

**§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.**

- (a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.
- (b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.
- (c) The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.
- (d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.
- (e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.
- (f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

**§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.**

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S.131D-2. (1989, c. 403.)

**§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.**

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1;1995, c. 254, s. 5.)

**§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.**

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

**§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.**

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

**§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.**

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)

# Appendix E

## Long Term Care Ombudsman Program

**Sharon Wilder (sharon.wilder@dhhs.nc.gov), State Long Term Care Ombudsman**

Kathryn Lanier (kathryn.lanier@dhhs.nc.gov), Ombudsman Program Specialist

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North Carolina Regional Ombudsmen	
A	B
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C	D
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North Carolina Regional Ombudsmen	
<b>G</b>	<b>I</b>
<p><b>Don Heermans, Dorian Fredricksen, Kim Johnson and Julia Perdue</b>  <b>Piedmont Triad Council of Governments</b>            2216 W. Meadowview Road, Suite 201            Greensboro, N.C. 27407-3480            (336) 294-4950            FAX: (336) 632-0457            e-mail: dheermans@ptcog.org                      dfredricksen@ptcog.org                      kjohnson@ptcog.org                      jperdue@ptcog.org</p> <p>Counties: Alamance, Caswell, Davidson, Guilford, Montgomery, Randolph and Rockingham</p>	<p><b>Vickie Turner, Grecia Gaura and Tenesha Moore</b>  <b>Northwest Piedmont Council of Governments</b>            400 W. Fourth Street, Suite 400            Winston-Salem, N.C. 27101            (336) 608-3567, (336) 608-3565, (336) 608-3566            FAX: (336) 761-2112            e-mail: vturner@nwpcog.org                      ggaura@nwpcog.org and                      tmoore@nwpcog.org</p> <p>Counties: Davie, Forsyth, Stokes, Surry and Yadkin</p>
<b>J</b>	<b>K</b>
<p><b>Nancy Murphy, Aimee Kepler, Carmelita Karhoff, Jennifer Link and Charlotte Terwilliger</b>  <b>Triangle J Council of Governments</b>            P.O. Box 12276            Research Triangle Park, N.C. 27709            (919) 558-2714, (919) 558-2719, (919) 558-9404,            (919) 558-2703, (919) 558-9401            FAX: (919) 998-8101            Toll Free: 1-800-310-9777            e-mail: nmurphy@tjcog.org; akepler@tjcog.org;                      ckarhoff@tjcog.org; jlink@tjcog.org;                      cterwilliger@tjcog.org</p> <p>Counties: Chatham, Durham, Johnston, Lee, Moore, Orange, and Wake</p>	<p><b>Kimberly Hawkins</b>  <b>Kerr Tar Regional Council of Governments</b>            P.O. Box 709            Henderson, N.C. 27536            (252) 436-2050            Toll Free: 1-866-506-6223            FAX: (252) 436-2055            e-mail: khawkins@kerrtarcog.org</p> <p>Counties: Franklin, Granville, Person, Vance and Warren</p>
<b>L</b>	<b>M</b>
<p><b>Abigail Harper and Helen Urie</b>  <b>Upper Coastal Plains Council of Governments</b>            121 West Nash Street            P.O. Box 9            Wilson, N.C. 27893            (252) 234-5963 and (252) 234-5962            FAX: (252) 234-5971            e-mail: awalton@ucpcog.org                      helen.urie@ucpcog.org</p> <p>Counties: Edgecombe, Halifax, Nash, Northampton and Wilson</p>	<p><b>Andrea W. Valdez and Tracy Davis</b>  <b>Mid-Carolina Council of Governments</b>            P.O. Box 1510            Fayetteville, N.C. 28302            (910) 323-4191 ext. 25 and ext. 27            FAX: (910) 323-9330            e-mail: andrea@mccog.org and tdavis@mccog.org</p> <p>Counties: Cumberland, Harnett and Sampson</p>
<b>N</b>	<b>O</b>
<p><b>Twilla C. Allen</b>  <b>Lumber River Council of Governments</b>            30 CJ Walker Road            Pembroke, N.C. 28358            (910) 272-5061 / FAX: (910) 521-7556            Toll Free: 1-866-582-4251            e-mail: tc@mail.lrcog.dst.nc.us</p> <p>Counties: Bladen, Hoke, Robeson, Scotland and Richmond</p>	<p><b>Audrey Marshall and Patricia Sacchetti</b>  <b>Cape Fear Council of Governments</b>            1480 Harbour Dr.            Wilmington, N.C. 28401            (910) 395-4553 / FAX: (910) 395-2684            Toll Free: 1-800-218-6575            e-mail: amarshall@capefearcog.org and                      psacchetti@capefearcog.org</p> <p>Counties: Brunswick, Columbus, New Hanover and Pender</p>

North Carolina Regional Ombudsmen	
P	Q
<p><b>Sheila Lewis and Angelia Pridgen</b>                      Eastern Carolina Council                      Area Agency on Aging                      P.O. Box 1717                      New Bern, N.C. 28563                      (252) 638-3185 ext. 3010 and ext. 3007                      Toll Free: 1-800-824-4648 / FAX: (252) 638-3187                      e-mail: slewis@eccog.org; apridgen@eccog.org</p> <p>Counties: Carteret, Craven, Duplin, Greene, Jones, Lenoir, Onslow, Pamlico and Wayne</p>	<p><b>Annette Eubanks</b>                      Mid-East Commission                      1385 John Small Avenue                      Washington, N.C. 27889                      (252) 974-1838                      FAX: (252) 551-7683                      e-mail: aeubanks@mideastcom.org</p> <p>Counties: Beaufort, Bertie, Hertford, Martin, and Pitt</p>
R	<p><i>Last updated April 12, 2010</i></p>
<p><b>Debra Sheard</b>                      Albemarle Commission                      P.O. Box 646                      Hertford, NC 27944                      (252) 426-5753                      FAX: (252) 426-8482                      e-mail: dsheard@albemarlecommission.org</p> <p>Counties: Camden Chowan, Currituck, Dare, Gates, Hyde, Pasquotank, Perquimans, Tyrrell and Washington</p>	



# Appendix F

## § 131D-31. Adult care home community advisory committees.

- (a) Statement of Purpose. - It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Adult Care Home Residents' Bill of Rights within the licensed adult care homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with adult care homes to ensure quality care for the elderly and disabled adults.
- (b) Establishment and Appointment of Committees. -
- (1) A community advisory committee shall be established in each county that has at least one licensed adult care home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county that has one, two, or three adult care homes with 10 or more beds, the committee shall have five members.
  - (2) In a county with four or more adult care homes with 10 or more beds, the committee shall have one additional member for each adult care home with 10 or more beds in excess of three, and may have up to five additional members at the discretion of the county commissioners, not to exceed a maximum of 25 members. In each county with four or more adult care homes with 10 or more beds, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each adult care home in the county. Each member must serve on at least one subcommittee.
  - (3) In counties with no adult care homes with 10 or more beds, the committee shall have five members. Regardless of how many members a particular community advisory committee is required to have, at least one member of each committee shall be a person involved in the area of mental retardation.
  - (4) The boards of county commissioners are encouraged to appoint the Adult Care Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) shall be chosen from among persons nominated by a majority of the chief administrators of adult care homes in the county. If the adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, these appointments may be made without nominations. If the county commissioners fail to appoint members to a committee by July 1, 1983, the appointments shall be made by the Assistant Secretary for Aging, Department of Health and Human Services, no sooner than 45 days after nominations have been requested from the adult care home administrators, but no later than October 1, 1983. In making appointments, the Assistant Secretary for Aging shall follow the same appointment process as that specified for the County Commissioners.

- (c) Joint Nursing and Adult Care Home Community Advisory Committees. - Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Adult Care Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary for Aging, Department of Health and Human Services. Where this approval is obtained, the Joint Nursing and Adult Care Home Community Advisory Committee shall have the membership required of Nursing Home Community Advisory Committees and one additional member for each adult care home with 10 or more beds licensed in the county. In counties with no adult care homes with 10 or more beds, there shall be one additional member for every four other types of adult care homes in the county. In no case shall the number of members on the Joint Nursing and Adult Care Home Community Advisory Committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Adult Care Home Committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and adult care home administrators for the appointment of approximately (but no more than) one-third of the members.
- (d) Terms of Office. - Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two- or three-year term at the county commissioners' discretion to ensure staggered terms of office.
- (e) Vacancies. - Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of adult care homes within the county, then the county commissioners shall fill the vacancy from persons nominated by a majority of the chief administrators. If the adult care home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, this appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary for Aging, Department of Health and Human Services no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.
- (f) Officers. - The committee shall elect from its members a chair, to serve a one-year term.
- (g) Minimum Qualifications for Appointment. - Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the

committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Health and Human Services.

- (h) Training. - The Division of Aging, Department of Health and Human Services, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G.S. 131D-32. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (i) Any written communication made by a member of adult care home advisory committee within the course and scope of the member's duties, as specified in G.S. 131D-32, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements and communications do not amount to intentional wrongdoing.

To the extent that any adult care home advisory committee or any member is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1981, c.923, s. 1; 1983, c. 88, s. 1; 1987, c. 682, s. 2; 1995, c. 535, s. 14; 1997-176, s. 2; 1997-443, s. 11A.118(a).)

#### **§ 131E-128. Nursing home advisory committees.**

- (a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State, including nursing homes operated by hospitals licensed under Article 5 of G.S. Chapter 131E. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.
- (b) (1) A community advisory committee shall be established in each county which has a nursing home, including a nursing home operated by a hospital licensed under Article 5 of G.S. Chapter 131E, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three, and may have up to five additional members per committee at the discretion of the county commissioners.
- (2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.

- (3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county and of the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes. If the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, these appointments may be made by the board of county commissioners without nominations.
- (c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, or who were appointed by the board of county commissioners when the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make nominations, may not be reappointed without the consent of a majority of the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes within the county. If the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.
- (d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes or a person appointed when the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make a nomination shall be selected from among persons nominated by the administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is not required. If nominations or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received

the nomination or approval, or no sooner than 45 days after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes.

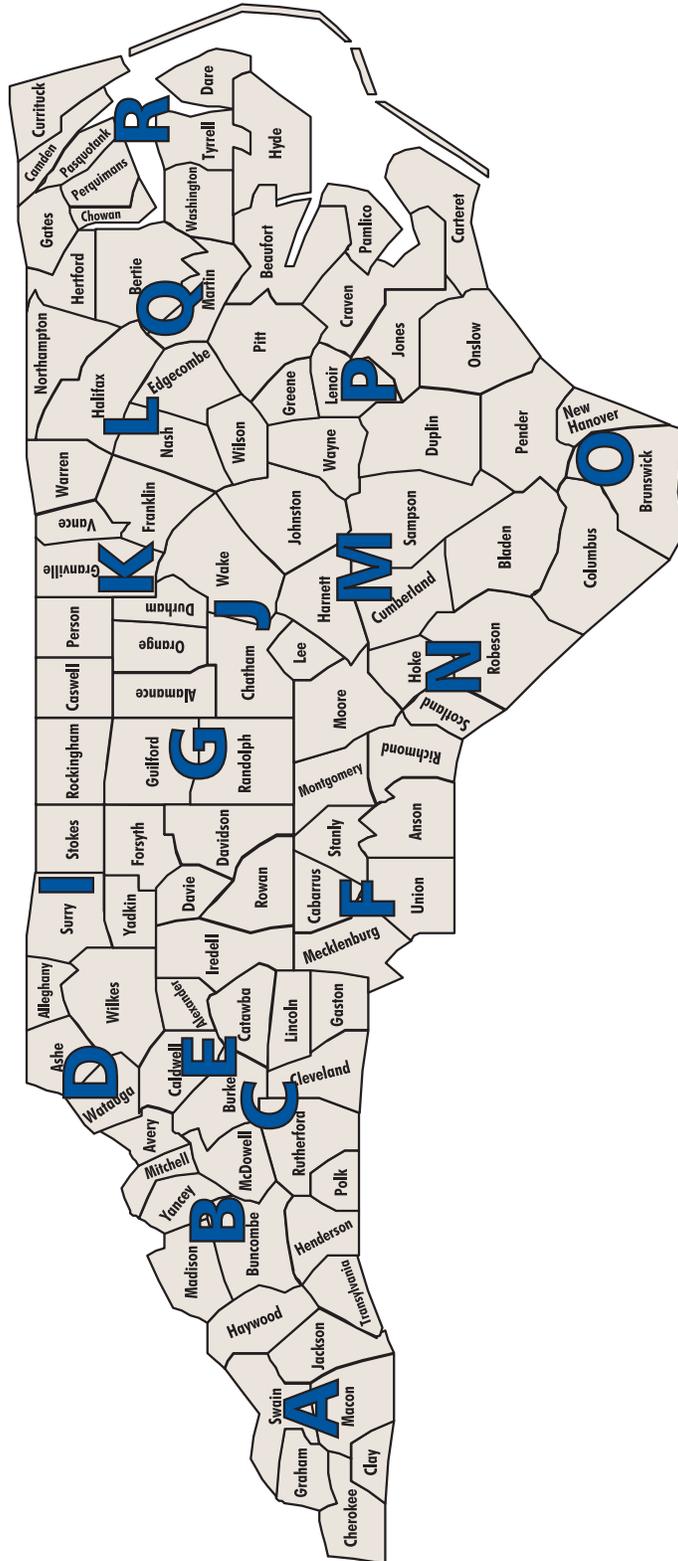
- (e) The committee shall elect from its members a chair, to serve a one-year term.
- (f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.
- (g) The Division of Aging, Department of Health and Human Services, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (h)
  - (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.
  - (2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.
  - (3) Each member of a committee shall have the right between 10:00 A.M. and 8:00 P.M. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by those subcommittees to which the member has been appointed.

- (4) The committee or subcommittee may communicate through its chair with the Department or any other agency in relation to the interest of any patient. The identity of any complainant or resident involved in a complaint shall not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.
- (5) Each home shall cooperate with the committee as it carries out its duties.
- (6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.
  - (i) Any written communication made by a member of a nursing home advisory committee within the course and scope of the member's duties, as specified in G.S. 131E-128, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements or communications do not amount to intentional wrongdoing.

To the extent that any nursing home advisory committee or any member thereof is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1977, c.897, s. 2; 1977, 2nd Sess., c. 1192, s. 1; 1983, c. 143, ss. 4-9; c. 775, s. 1; 1987, c. 682, s. 1; 1995, c. 254, s. 7; 1997-176, s. 1; 1997-443, s. 11A.118(a).)

# Appendix G

## Area Agencies on Aging









State of North Carolina  
Beverly Eaves Perdue, Governor

Department of Health and Human Services  
Lanier M. Cansler, Secretary

Dennis W. Streets, Director, Division of Aging and Adult Services  
Sharon C. Wilder, State Long Term Care Ombudsman

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